



NO.: 71-17R5

DATE: January 1, 2005

SUBJECT: **Guidance on Competent Authority Assistance Under Canada's Tax Conventions**

This version is only available electronically.

This circular replaces and cancels Information Circular 71-17R4 dated May 12, 1995. It has been revised, and expanded to include guidance for certain types of competent authority requests.

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Introduction

1. The Canada Revenue Agency (CRA) provides competent authority assistance pursuant to Canada's tax conventions (also referred to as "treaties"). There is no fee for this service. A list of countries with which Canada has concluded a tax convention is available on the Department of Finance's website at: http://www.fin.gc.ca/treaties/treatystatus_e.html
2. The purpose of this circular is to provide guidance on obtaining assistance from the Canadian Competent Authority to persons or entities that fall within the scope of a tax convention that Canada has negotiated with another country. This assistance is provided to taxpayers in order to try to resolve situations where taxpayers are subject to taxation not in accordance with the provisions of the relevant tax convention, including situations of double taxation. This circular does not, and is not intended to, modify, restrict or expand any rights or obligations contained in any provision in Canada's tax conventions.
3. The primary purpose of Canada's tax conventions is to eliminate double taxation and to prevent tax avoidance and fiscal evasion. A tax convention will also serve, in effect, to allocate tax revenues on transactions taking place between residents of the signatory countries. To these ends, a tax convention may provide rules determining:
 - the country in which a taxpayer is resident;
 - the types of income or capital that each country may tax;
 - the treatment given to specific types of income;
 - the allowable rates of withholding tax on specific types of cross-border payments; and
 - the manner in which issues of taxation not in accordance with the tax convention are to be resolved.
4. Assistance by the Canadian Competent Authority is generally provided under the Mutual Agreement Procedure (MAP) article contained in Canada's tax conventions. In certain situations other articles may apply to allow for competent authority assistance (for example, the Related Persons article).

5. Canada's tax conventions define the Canadian Competent Authority as the Minister of National Revenue or the Minister's authorized representative. Administratively, the Canadian Competent Authority function is split between the International Tax Directorate and the Legislative Policy Directorate of the CRA. The Director, Competent Authority Services Division, International Tax Directorate serves as the Canadian Competent Authority for resolving cases, such as the examples listed in paragraph 11, related to specific taxpayers. Requests for competent authority assistance in respect of specific cases and related enquiries may be sent to:

Canada Revenue Agency
 Director, Competent Authority Services Division
 International Tax Directorate
 Compliance Programs Branch
 5th floor, 344 Slater Street
 Ottawa ON K1A 0L5

This circular deals with requests for assistance to Canada's Competent Authority responsible for specific cases, i.e., the Director, Competent Authority Services Division.

The Director General, Legislative Policy Directorate, is the Canadian Competent Authority for issues involving general interpretation, non-discrimination, treaty shopping, double non-taxation issues, and general issues concerning the application of tax conventions where specific taxpayers are not involved. Requests for competent authority assistance in respect of these non-specific case issues may be sent to:

Canada Revenue Agency
 Director General
 Legislative Policy Directorate
 Policy and Planning Branch
 22nd floor, Tower A
 Place de Ville
 320 Queen Street
 Ottawa ON K1A 0L5

The Commitment of the Canadian Competent Authority

6. The Canadian Competent Authority is committed to ensuring a good faith application of Canada's tax conventions. The Canadian Competent Authority endeavours to resolve competent authority requests in an equitable manner in accordance with the *Income Tax Act (Canada)* (the Act), the *Income Tax Conventions Interpretation Act*, Canadian case law, the applicable tax convention, the Organisation for Economic and Co-operation and Development's (OECD's) *Model Tax Convention on Income and on Capital* and the OECD's *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*. To fully carry out this obligation, every effort is made to reach a satisfactory resolution of the issues involved.

7. The Canadian Competent Authority negotiates with other competent authorities in a principled, fair and objective manner. Each case is decided on its own merits. The Canadian Competent Authority will continue to strive to

resolve cases in a timely manner and will keep the taxpayer informed of the status of the request on an on-going basis. Once a decision has been made on a case, the taxpayer will be advised of the decision in writing. A taxpayer can request the Canadian Competent Authority to explain the basis of a decision so that the taxpayer can be satisfied that the decision was reached in a principled, fair and objective manner.

8. The Pacific Association of Tax Administrators (PATA), of which Canada is a member, along with Australia, Japan and the United States, has publicly issued a document entitled, "*Operational Guidance on the Mutual Agreement Procedure*". This document is a useful summary of the operational guidance principles to which Canada adheres. The PATA Operational Guidance can be accessed on the CRA website at:

<http://www.cra-arc.gc.ca/tax/nonresidents/ccas-e.html>

9. All information obtained or generated during the MAP process is protected by the confidentiality provisions of the Act and the provisions of the applicable tax convention. In particular, the confidentiality provisions in the Act limit the rights and powers of the CRA to use and disclose information submitted in connection with a competent authority request. In addition, the Canadian Competent Authority recognizes that the disclosure of sensitive or confidential information such as a trade secret could harm a taxpayer's competitive position, and ensures that all measures are taken to protect such information.

Typical Requests for Assistance From the Canadian Competent Authority

10. Where a person considers that the actions of one or both governments result or will result in taxation not in accordance with the tax convention, the person may request competent authority assistance under the MAP article of a Canadian tax convention. In most cases, such an action is an adjustment to, or a formal written proposal to adjust, income related to a transaction to which the Canadian taxpayer is a party. Generally, taxpayers must approach the competent authority of their country of residence to request relief under a tax convention. In cases where an adjustment is made that affects related parties in both Canada and a treaty country, each taxpayer should make a separate request for assistance to the competent authority of the country in which it is resident.

11. Examples of taxation not in accordance with a tax convention that may warrant a request for assistance to the Canadian competent authority include:

- A Canadian resident taxpayer is also considered to be a resident of a treaty country under that country's domestic law, and each country asserts that the taxpayer is a resident of its jurisdiction for purposes of the tax convention. If unresolved, the taxpayer could be subject to tax on the same income in both countries. A request to the Canadian or foreign Competent Authority will be

necessary to initiate negotiation between the competent authorities regarding the proper application of the tie breaker rules contained in the residency article of the convention. The taxpayer should approach the competent authority of the country in which the taxpayer asserts residency.

- A taxpayer in a treaty country is subject to additional tax because of an adjustment to the price of goods or services transferred to or from a related party in Canada. The Canadian taxpayer may request that the Canadian Competent Authority allow a corresponding deduction in Canada to prevent double taxation.
- A branch of a Canadian resident taxpayer operating in a treaty country is subject to additional tax because of an adjustment by the treaty country of the income allocated to the branch. The taxpayer may request that the Canadian Competent Authority allow an increased foreign tax credit in Canada to prevent double taxation.
- A Canadian taxpayer subject to tax in Canada on world income, including income from carrying on a business in a treaty country, is taxed in the treaty country on the business income earned in the treaty country despite not having a permanent establishment in that country under the tax convention. The taxpayer may request the Canadian Competent Authority to address the issue of taxation not in accordance with the tax convention with the competent authority of the other country.
- Tax is withheld by a treaty country on a payment to a Canadian resident at a rate in excess of the rate stated in the tax convention. The taxpayer may request the Canadian Competent Authority to address the taxation not in accordance with the tax convention with the competent authority of the other country.
- Where there is uncertainty whether the treaty covers an item of income arising in the other jurisdiction, the taxpayer may approach the Canadian Competent Authority for clarification.

Most of the examples above deal with foreign-initiated adjustments. However, a Canadian resident may also seek assistance from the Canadian Competent Authority if the resident believes that a Canadian-initiated adjustment results or will result in taxation not in accordance with the tax convention. For example, a taxpayer in Canada who is subject to additional tax because of a CRA proposed adjustment to the price of goods or services transferred to or from a related party in a treaty country may request the Canadian Competent Authority to ask the other competent authority to allow a corresponding deduction for the related party in the treaty country in order to prevent double taxation.

12. Where a request is made to the Canadian Competent Authority under the MAP article of a tax convention, the Canadian Competent Authority will first, if the request appears to be justified and can be accepted by the Canadian Competent Authority from a policy standpoint, attempt to resolve the matter unilaterally. For example, if the Canadian Competent Authority considers that the request for relief is

warranted and the relief requested is entirely within the bounds of Canada's tax laws, it could provide the relief without consulting the other competent authority. If the Canadian Competent Authority is not itself able to arrive at a satisfactory solution, it will endeavour to resolve the matter by mutual agreement with the other competent authority.

13. The Canadian Competent Authority may also be approached by a treaty partner and requested to give correlative relief through a "corresponding adjustment." The term "corresponding adjustment" is an adjustment made by Canada or by its treaty partner in order to relieve double taxation caused by an adjustment initiated by the other tax administration.

14. Under certain articles of a number of Canada's tax conventions, a resident of a treaty country may request that the Canadian Competent Authority enter into an agreement as contemplated by the convention without first bringing the matter to the attention of the competent authority of the treaty country. For example, specific provisions in a tax convention may deal with inconsistent domestic treatment of corporate reorganizations, under which taxpayers may incur unrelieved double taxation due to mismatches in the timing of recognition of income in the two countries. Under these provisions, a foreign taxpayer may enter into an agreement directly with the Canadian Competent Authority for the inclusion or deferral of income in Canada to alleviate timing mismatches. The effect is relief from the double taxation or potential double taxation that may arise due to the difference between Canadian and foreign tax law requirements. Agreement by the Canadian Competent Authority is discretionary.

15. Although not under the category of a "typical request," the Canadian Competent Authority may initiate competent authority proceedings and subsequent negotiations without a specific request from a taxpayer in any situation where there is taxation not in accordance with a tax convention in order to protect Canadian interests. For example, the Canadian Competent Authority may disagree with the interpretation by its treaty partner of a provision in a tax convention. Such a situation could involve a specific taxpayer or a group of taxpayers. In either case, the Canadian taxpayer(s) will be advised of the competent authority proceedings and outcome. Moreover, a taxpayer maintains the right to reject a competent authority agreement reached in such a situation. (See paragraph 55.)

Making a Request

16. To start a request for competent authority assistance, the taxpayer informs or "notifies" the Canadian Competent Authority that it believes there is an action of one of the treaty countries that has resulted or will result in taxation not in accordance with the relevant tax convention. Under tax conventions where a time limit is specified, this notification must take place within the time limit to "present" a case or to "address an application" (as those terms are used in the MAP

or Related Persons article of a Canadian tax convention) to the competent authority. (See also the discussion of “notification” under the *Canada-U.S. Tax Convention* in paragraphs 66 to 71.) This presentation may be brief, indicating only the nature of the request, and the persons and years involved.

17. The next step is to submit a complete application to the Canadian Competent Authority. Although the notification may be brief, a request for assistance made to the Canadian Competent Authority will be considered complete only upon the receipt of the information outlined in paragraph 19 below. The Canadian Competent Authority will not initiate the competent authority process until a complete request for assistance is received.

18. In recognition of the time limits under Canada’s tax conventions for notification, a taxpayer may notify the Canadian Competent Authority in respect of a Canadian-initiated adjustment before the date of (re)assessment provided that there is probability, and not just possibility, that taxation not in accordance with the applicable convention will result. However, a notification or request will not delay or suspend the normal audit reassessment procedure that the CRA follows. The Canadian Competent Authority does not have any authority over cases at the audit stage. Furthermore, the Canadian Competent Authority will generally not commence the MAP process until such time as the adjustment is confirmed by a (re)assessment, or the time that a formal complete request for assistance is received, whichever is later. The Canadian Competent Authority requires the (re)assessment in order to determine if the request is justified and to have a confirmed and final adjustment with supporting information in order to commence negotiations with the other competent authority.

19. There is no prescribed form for requesting Canadian Competent Authority assistance. However, the taxpayer must provide the following relevant information:

- a) the name, address, and social insurance number, or corporation identification and business number, of the Canadian taxpayer;
- b) the name of the foreign tax administration involved, the tax convention article(s) which the taxpayer asserts is not being correctly applied by Canada or the other country, and the taxpayer’s interpretation of the application of the article;
- c) the name, address and, if possible, the identification number of any related foreign taxpayer involved;
- d) the relationship between the Canadian taxpayer and any related foreign taxpayers involved. (Applicants should also keep the Canadian Competent Authority informed of any changes in these relationships that occur after the request has been filed.);
- e) the taxation years or periods involved;
- f) the Tax Services Office or Taxation Centre that has made or is proposing to make the adjustment, if applicable;
- g) a summary of the facts and an analysis of the issues for which competent authority assistance is requested, including any specific issues raised by the foreign tax administration or CRA affecting the Canadian taxpayer and the related amounts (in both Canadian and foreign currency), each supported by calculations;
- h) for transfer pricing cases, contemporaneous documentation as described in subsection 247(4) of the Act;
- i) a copy of the competent authority request and all the relevant documents filed, or to be filed, with the relevant foreign competent authority, including copies of any correspondence from the other tax administration, and copies of any briefs, objections, etc., submitted in response to the action or proposed action of the other tax administration (if such copies are in a foreign language, an English or French translation must be supplied);
- j) a statement indicating whether the taxpayer or a predecessor has made a prior request to the Canadian Competent Authority on the same or a related issue;
- k) for each taxpayer involved in the request, a schedule of the statute-barred dates in each jurisdiction (domestic time limits) in respect of all years for which relief is sought;
- l) a statement indicating whether the taxpayer has filed a notice of objection or a notice of appeal in Canada;
- m) where the request for competent authority assistance involves issues that are currently or were previously considered as part of an Advance Pricing Arrangement in Canada or in similar proceedings in the foreign country, a statement to that effect;
- n) if consent has not already been provided for a person to act as an authorized representative, a signed statement that the representative is authorized to act for the taxpayer in making the request;
- o) any other relevant facts;
- p) a copy of any settlement or agreement reached with the other jurisdiction which may affect the MAP process; and
- q) the taxpayer’s views on any possible bases on which to resolve the issues.

In order to facilitate the administration of the request, electronic copies of the submission materials should be provided whenever possible. (See paragraphs 93 and 94.)

20. The request should be signed by the taxpayer, or by an authorized person on behalf of the taxpayer, confirming the accuracy and completeness of the facts and information presented in the request. The taxpayer is responsible for the completeness and accuracy of the information included in the request. The Canadian Competent Authority may deny any

request where the taxpayer has failed to provide complete and accurate information or has made any misrepresentation.

Accelerated Competent Authority Procedure (ACAP)

21. In addition to a request for competent authority assistance in respect of a specific (re)assessment, a taxpayer may request assistance for subsequent filed taxation years on the same issue. Once an ACAP request has been received, the Canadian Competent Authority will consult with the appropriate Tax Services Office to determine whether an ACAP is suitable for the taxpayer's particular circumstances. Normally, the issue must be one that is recurring and relevant to the specific (re)assessment.

22. When a decision has been made to consider the subsequent years, the CRA will request any additional information from the taxpayer required to address the subsequent ACAP period. The CRA will determine the extent, if any, to which the taxpayer's books and records for the ACAP period need to be examined. The Canadian Competent Authority will consult with the foreign competent authority under the MAP process to endeavour to resolve the issue.

23. The request or acceptance of an ACAP will not preclude or diminish the CRA's right to examine the books and records, transactions, or issues addressed (or being addressed) by the ACAP.

Acceptability of Requests

24. The Canadian Competent Authority will accept a request for assistance if:

- a) the issue or transaction relates to a foreign country with which Canada has a tax convention;
- b) it is evident that the actions of one or both countries have resulted or will result in taxation not in accordance with the tax convention;
- c) the taxpayer notifies the competent authority within the time limits specified in the applicable tax convention. (If the applicable tax convention does not specify a time limit for notification, the notification must be received within the time allowed to make an adjustment under the Act if the relief is to be provided by Canada, or within the time allowed to make an adjustment under the law of the treaty country if the relief is to be provided by the other country); and
- d) the issue is not one that the Canadian and/or the foreign Competent Authority have decided, as a matter of policy, not to consider.

25. The CRA will notify the taxpayer in writing whether the Canadian Competent Authority has accepted or declined the request for competent authority assistance normally within thirty days of receiving a complete request. The

taxpayer will be provided with the reasons for the decision where a request is declined.

Specific Situations Not Accepted for Canadian Competent Authority Consideration

26. There are certain issues that Canada's Competent Authority will not consider, including the following examples:

- Situations involving a U.S. Limited Liability Company (LLC) that is treated as a partnership under the U.S. Internal Revenue Code. Although an LLC may approach competent authority under the MAP, generally there are no discernible benefits to its doing so. Since an LLC that has not elected to be taxed as a corporation for U.S. tax purposes is not a resident for purposes of the *Canada-U.S. Tax Convention*, it is not entitled to the benefits under that *Convention* that require the person to be a resident of a contracting state.
- Notional expenses – Canada will not give correlative relief in the form of a notional expense for a notional income adjustment raised by a treaty partner.
- Thin capitalization – Under Canada's tax conventions, Canada retains its right to limit the deductibility of interest under subsection 18(4) of the Act.

Tax Avoidance

27. In general, the Canadian Competent Authority will not negotiate cases where the (re)assessment relies on section 245 of the Act or other specific anti-avoidance provisions of the Act including the *Income Tax Act Regulations*. This means, generally, that the Canadian Competent Authority will consider requests for assistance in such cases, but, if the request is accepted, will limit itself to forwarding the case to the other competent authority for any relief that the foreign competent authority may provide at the latter's discretion.

28. In a situation where an anti-avoidance provision is cited in a (re)assessment, and the taxpayer succeeds in getting that portion of the (re)assessment vacated, either through the Appeals Branch or a court, so that avoidance is no longer an issue, the taxpayer may then request the Canadian Competent Authority for assistance if taxation not in accordance with the tax convention is still an issue. (Note, however, that for those situations involving a court decision the Canadian Competent Authority cannot vary the court decision and any assistance would be limited to presenting the case to the other competent authority. See paragraph 43.)

Responsibilities of the Taxpayer

29. Taxpayers are expected to co-operate fully with the Canadian Competent Authority by providing information and assistance when requested.

30. Taxpayers should not make claims for corresponding adjustments or foreign tax credits for foreign tax administration adjustments, either when filing their current Canadian income tax returns or by filing amended income tax returns, without first seeking assistance from the Canadian Competent Authority. Taxpayers can only obtain a corresponding adjustment through the competent authority process. If taxpayers request corresponding adjustments or increased foreign tax credits from a local Tax Services Office or Taxation Centre, such cases will be referred to the Competent Authority Services Division in Ottawa. Failure to seek competent authority assistance or an attempt to bypass the competent authority process through a “self-help” solution will cause delays and may result in double taxation.

31. Once a competent authority request has been accepted, the taxpayer is responsible for supplying the Canadian Competent Authority with complete and accurate information required to resolve the case. The onus is on the taxpayer to keep the Canadian Competent Authority informed of all material changes in the information or documentation previously submitted as part of, or in connection with, the request, as well as new information or documentation relevant to the issues under consideration. Without proper information and documentation, competent authorities may be unable to resolve disputes expeditiously and the risk of unrelieved double taxation increases. Where a request also involves a related foreign taxpayer making a request to a foreign competent authority, the taxpayers should ensure that the same information is provided to both competent authorities at the same time.

32. Tax conventions usually provide time limits for the taxpayer to present a case to the competent authority of taxation not in accordance with the convention. In most of Canada’s tax conventions this time limit is two years from the first time that the taxpayer is notified of the action by a revenue authority that results in taxation not in accordance with the convention. From a Canadian perspective this generally means two years from the date of the notice of (re)assessment. Once the Canadian Competent Authority has been presented with a case, it is restricted in providing relief to the taxpayer to the time period allowed under the Act for making reassessments of a taxpayer’s return, unless a later time is provided for in a tax convention. (See paragraph 67 for the special rules under the *Canada-U.S. Tax Convention*.) In tax conventions where no time limit is specified for presenting a case to the competent authority, the Canadian Competent Authority will be restricted in its ability to give relief to the time allowed for reassessments or for Part XIII tax refunds provided under the Act.

33. Taxpayers are responsible for ensuring that the taxation years affected by the request do not become statute-barred under the Act. Doing so ensures that the Canadian Competent Authority is able to provide the requested relief despite the expiration of the normal reassessment period. In this regard, a Canadian taxpayer should protect its rights by filing waivers in prescribed form

pursuant to subparagraph 152(4)(a)(ii) of the Act. Form T2029, *Waiver in Respect of the Normal Reassessment Period*, must be used for this purpose and must be filed within the time limits specified for filing waivers.

34. Valid waivers permit the CRA to reassess a return to provide relief or otherwise amend a Canadian (re)assessment as a result of competent authority negotiations for years that would otherwise be legally barred from being (re)assessed. However, a waiver, by itself, does not constitute presentation of a competent authority request to the Canadian Competent Authority. A separate presentation must be made to the Canadian Competent Authority. Taxpayers are also responsible for keeping their relevant provincial income tax returns open. (See paragraphs 59 to 62.)

35. Related foreign taxpayers involved in the request should also take such timely action as may be necessary with the foreign tax administration. The Canadian Competent Authority will not rescind a Canadian-initiated adjustment solely because the taxation year of the related foreign taxpayer is beyond the statute-barred date in the foreign jurisdiction.

36. MAP discussions between the Canadian Competent Authority and the other competent authority are a government-to-government process in which there is generally no direct taxpayer involvement. Therefore, taxpayer involvement in the MAP is limited to presenting the taxpayer’s views and assisting in the fact-finding without participating in the negotiation process. However, taxpayers may be invited to make a presentation before the competent authorities, where appropriate, to ensure a common understanding of the facts of a particular case.

Taxpayer Cooperation

37. A taxpayer’s failure to co-operate with the Canadian Competent Authority during any part of the competent authority process may have direct consequences on whether relief can be provided under the MAP. Specifically, the Canadian Competent Authority may request additional information beyond that which was requested during an audit, and may also request information that was requested but not provided during an audit. It is to the taxpayer’s benefit to be fully cooperative and transparent to ensure an efficient competent authority process. The timely provision of requested information is essential to enable the competent authorities to reach an equitable and expeditious conclusion. Where the failure to provide the requested information within a reasonable time hinders the Canadian Competent Authority’s ability to perform its duties in an efficient and effective manner, it may lead to a denial of competent authority assistance or the Canadian Competent Authority being unable to reach a mutual agreement with the other competent authority. Ultimately, this may result in double taxation or taxation not in accordance with the tax convention.

Appeals and Court Decisions

38. With respect to (re)assessments by the CRA, taxpayers should protect their rights of appeal by filing a Notice of Objection against a (re)assessment and requesting that the Appeals Branch hold the Notice of Objection in abeyance, pending resolution of the issues by the competent authorities. This protects taxpayers' rights of appeal to the Appeals Branch and Canadian courts in the event that the competent authorities do not resolve the issues. Although in most cases the competent authorities reach agreement and relieve taxation not in accordance with the tax convention, there is no further recourse when an agreement cannot be reached.

39. If a taxpayer proceeds with either a Notice of Objection or an appeal to a Canadian court on a matter that is under competent authority consideration, and does not request that the objection or appeal be held in abeyance, the competent authority process will be terminated. However, a taxpayer may make a competent authority request regarding one issue of a (re)assessment, and independently pursue another issue with the Appeals Branch.

40. Waivers of rights to objections or appeals pursuant to subsections 165(1.2) and 169(2.2) of the Act do not affect a taxpayer's right to seek relief from the Canadian Competent Authority for taxation not in accordance with a tax convention.

41. If a taxpayer believes that taxation not in accordance with the tax convention remains following an Appeals Branch decision, the taxpayer can submit the issue for competent authority consideration, or if already submitted, ask that the competent authority procedure recommence. However, if the Appeals Branch decision has the concurrence of the taxpayer, the Canadian Competent Authority will only present the case to the other competent authority and will not negotiate the issue. If the taxpayer does not concur with the Appeals Branch decision, the Canadian Competent Authority will negotiate the issue. The Canadian Competent Authority will give due consideration to the findings made by the Appeals Branch with regard to the application of Canadian law.

42. If the Appeals Branch confirms or varies the (re)assessment of a return for which there is no valid waiver in place, implementation of any subsequent decision by the Canadian Competent Authority will be limited by the statute-barred date for the return (unless an appeal is filed with the Tax Court, and the Tax Court has agreed to hold the appeal in abeyance). (See the exception for the U.S. discussed in paragraph 67 where there is timely notification.) Note, however, that if the Notice of Objection is held in abeyance while the case is under competent authority consideration, a decision of the Canadian Competent Authority can be implemented by the Appeals Branch as a resolution to the Notice of Objection notwithstanding that there is no waiver for the return and the statute-barred date for the return has passed.

43. In cases where a Canadian court decision has been rendered, the Canadian Competent Authority will provide the other competent authority with the details of, and rationale for, the outcome of the court decision. However, the Canadian Competent Authority cannot alter a court decision. Any relief for double taxation or taxation not in accordance with the tax convention will be possible only in the other country at the discretion of its competent authority. The Canadian Competent Authority will not undertake any action that would undermine a Canadian court decision or a case before the courts.

44. For more detailed information about the objections and appeals process, see pamphlet P148, *Your Appeal Rights Under the Income Tax Act*.

45. The Canadian Competent Authority is not bound by a decision given by a foreign court or a foreign appeal settlement. The granting of any relief to the Canadian taxpayer by the Canadian Competent Authority in such situations will depend on the merits of each case.

Collections

46. The liability for tax in Canada is confirmed by a (re)assessment. An application for competent authority assistance does not suspend the requirement to pay the tax liability or interest thereon, or collection action by the CRA. The Canadian Competent Authority has not entered into any agreements with other competent authorities to defer any assessing action, or to stop or defer collection of income tax on cases that are the subject of a request for competent authority assistance.

47. In general, the CRA may not commence collection action until 90 days after the date of a taxpayer's (re)assessment. If a taxpayer files a Notice of Objection the CRA must further defer collection until 90 days after the Minister has either confirmed or varied the (re)assessment. If the taxpayer then files an appeal with the Tax Court of Canada, the CRA must defer collection action until the Court renders a decision. However, these collection restrictions on assessed amounts that are the subject of a Notice of Objection or Tax Court appeal do not apply to (re)assessments issued to "large corporations", as defined under subsection 225.1(8) of the Act. Large corporations are required to pay one-half of the assessed amount within 90 days of the date of assessment. If the large corporation does not file a protective appeal or objection, the remaining balance of 50% must be paid. The collection restrictions also do not apply to tax, interest and penalties assessed on payments made to non-residents that are subject to withholding under Part XIII, or section 116 (dispositions of property) of the Act.

48. Notwithstanding paragraphs 46 and 47 above, subsection 220(4) of the Act provides in general terms that the CRA may in certain circumstances accept security for payment of an amount that is or may become payable under

the Act. Agreement to accept security is at the discretion of the Revenue Collections Branch. If the Revenue Collections Branch agrees to accept security, the corporation will be expected to provide security based on the following scenarios:

- a) If the corporation seeks competent authority assistance and files a protective appeal or objection, security for 50% of the tax will be required; and
- b) If the corporation seeks the competent authority process without filing a protective appeal or objection, security for 100% of the tax will be required.

If the corporation only pursues the objection or appeal procedure without seeking competent authority assistance, there is no relief for the requirement to pay 50% of the tax, and security will not be accepted.

49. Taxpayers requiring assistance on collection matters, including what is considered to be acceptable security, should contact the Revenue Collections Division of their local Tax Services Office. For more detailed information about CRA's collection policies please refer to Information Circular 98-1R, *Collections Policies*.

(<http://www.cra-arc.gc.ca/E/pub/tp/ic98-1r/README.html>)

Interest and Penalties

50. The scope of Canada's tax conventions does not extend to cover interest or penalties. Therefore, the Canadian Competent Authority does not waive or negotiate any portion of interest or penalties resulting from (re)assessments or adjustments that are the subject of a request for competent authority assistance.

51. For example, the application of the Canadian transfer pricing penalty is a compliance issue that is not covered by the MAP of a tax convention. Accordingly, the Canadian Competent Authority will not negotiate the amount or applicability of a transfer pricing penalty with a foreign tax administration. However, where the CRA has proposed to (re)assess or has (re)assessed a transfer pricing penalty and the competent authorities negotiate a change to the amount of the transfer pricing income or capital adjustments, the CRA will adjust the amount of the Canadian transfer pricing penalty accordingly.

52. Notwithstanding paragraph 50, domestically the CRA will consider waiving or cancelling a portion of the interest that accrues during the period of time that a competent authority request remains outstanding. This period starts once a competent authority request has been accepted by the CRA. The intention is to consider interest relief for the time that is not controllable by the taxpayer. Relief will be considered on a case-by-case basis. Factors that will be taken into account in considering interest relief include taxpayer cooperation and reciprocity with the foreign jurisdiction. The latter factor includes the provision for and tax treatment of interest

refunds and charges in the other jurisdiction. This relief is not available for interest on penalties.

Competent Authority Agreements

53. Competent authority agreements are not considered precedents for either the taxpayer or the CRA in regard to (re)assessments relating to subsequent years or for competent authority negotiations on the same issues. This is because the competent authorities have negotiated an agreement that takes into account the facts of the particular taxpayer, as well as differences in the provisions of the tax law in each country and effects of the economic indicators on the particular transactions at the relevant time. (Re)assessments of subsequent years should be based on the particular circumstances, facts and documentary evidence existing for those years.

54. A taxpayer cannot accept the terms of an agreement for only some issues or taxation years involved, since the original request by the taxpayer would have asked for assistance in respect of all issues and taxation years involved and the competent authorities would have considered all issues and years in the negotiations.

55. If a taxpayer is not satisfied with the agreement negotiated by the competent authorities, the taxpayer may reject it. If this occurs, the competent authorities will consider the case closed and advise the taxpayer accordingly. Assuming a valid notice of objection or an appeal has been filed, the taxpayer will still have the right to proceed through the appeals process and/or to the Tax Court for Canadian (re)assessments. If the Appeals Branch or the Court does not reverse the adjustment in its entirety, double taxation may remain. The Canadian Competent Authority will accept another request by the same taxpayer on the issue but will only present it to the other competent authority and will not negotiate the issue a second time.

Part XIII Tax and Repatriation of Transfer Pricing Adjustments

56. The amount of a transfer pricing adjustment made under section 247 of the Act may also be subject to withholding under Part XIII as a deemed dividend paid to a non-resident (i.e., a secondary adjustment). However, the taxpayer may be granted relief for the Part XIII tax if the taxpayer repatriates funds from the non-resident equivalent to the amount of the transfer pricing adjustment.

57. A mutually agreed settlement between the competent authorities of Canada and a treaty partner in respect of a transfer pricing adjustment will also include agreed terms for repatriation. These terms are specific to the particular settlement between the two governments. The terms may vary, but generally allow for the repatriation of funds to be effected either by a direct reimbursement or through an offset of inter-company accounts. Typically, the agreed terms also provide that where a taxpayer repatriates within a mutually

agreed reasonable time period, any withholding taxes applicable to the secondary adjustment are waived or refunded. The repatriation may be subject to audit verification. Depending on the particular agreement reached with the treaty partner, imputed interest income on the intercompany accounts receivable arising from the primary adjustment may also be waived. There is no waiver for interest applicable to the primary adjustment.

58. A repatriation agreement reached at the audit stage will not preclude a request by the taxpayer for competent authority assistance. Where a taxpayer proceeds to request competent authority assistance after concluding a repatriation agreement, the Canadian Competent Authority will amend the repatriation agreement for any change made to the amount of the transfer pricing adjustment as a result of the MAP process. Where a taxpayer proceeds to request competent authority assistance without having concluded a repatriation agreement at the audit stage, the Canadian Competent Authority may agree on terms of repatriation with the competent authority of the treaty country.

Provincial Income Tax Considerations

59. The provinces and territories are not bound by Canadian tax conventions. However, any competent authority settlements will apply automatically for the “agreeing provinces” because those provinces use the same taxable income as is used for federal tax purposes. The “agreeing provinces” are Newfoundland and Labrador, Prince Edward Island, Nova Scotia, New Brunswick, Manitoba, Saskatchewan, British Columbia, and the Yukon, Northwest and Nunavut Territories for individuals and corporations, and Ontario and Alberta for individuals.

60. In the case of “non-agreeing provinces,” that is Quebec for individual taxpayers, and Quebec, Ontario, and Alberta for corporations, Canada’s tax conventions are formally recognized to varying degrees in their tax legislation. These provincial tax administrations have also historically accepted competent authority settlements, although there is no obligation for them to do so.

61. If a waiver has been filed under subsection 152(4) of the Act, such a waiver is also valid for the purposes of the Ontario *Corporations Tax Act*. In the case of Alberta and Quebec, however, a waiver should be filed in accordance with the relevant provincial legislation. If a waiver is not filed, the laws in the three non-agreeing provinces automatically keep returns open for 12 months following the date of (re)assessment under the Act.

62. The comments in this circular reflect provincial legislation in force at the time of publication. There may have been changes since that time. Taxpayers should consult with the respective provincial tax administrations of the non-agreeing provinces.

Advance Pricing Arrangements (APAs)

63. The Canadian Competent Authority also deals with APA requests. The CRA’s APA program assists taxpayers in determining transfer pricing methodologies with the objective of avoiding double taxation that may otherwise occur. Under the MAP article of a tax convention, a taxpayer may request a bilateral APA with respect to specified cross-border transactions. Once concluded, bilateral APAs provide an increased level of tax certainty in both tax jurisdictions, thereby lessening the likelihood of double taxation. For more details about the APA program refer to the most current version of Information Circular 94-4, *International Transfer Pricing: Advance Pricing Arrangements*.

(<http://www.cra-arc.gc.ca/E/pub/tp/ic94-4r/README.html>)

Specific Issues Under the Canada–U.S. Tax Convention (1980) (the Convention)

64. The Convention contains certain specific provisions to relieve double taxation, as described below. The granting of relief is at the discretion of the competent authority.

65. Generally, the Convention applies to taxation years that start on or after January 1, 1985.

Notification Pursuant to Article IX – Related Persons and Article XXVI – Mutual Agreement Procedure¹

66. Article IX of the Convention authorizes Canada or the United States to adjust the amount of income, loss or tax payable where arrangements between a person and a related person in the other country differ from those that would be made between unrelated persons. It also authorizes the competent authorities to allow corresponding adjustments to related persons in their jurisdiction to alleviate double taxation that may arise when the other country makes such an adjustment. Article XXVI of the Convention authorizes the competent authorities to undertake discussions to resolve cases of taxation that are not in accordance with the Convention. Note that the term “person” rather than “resident” is used in Articles IX and XXVI in order to encompass a company resident in a third state with, for example, a permanent establishment in Canada or the United States.

67. A “notification” of the other competent authority as that term is used in Articles IX and XXVI of the Convention is equivalent to the “presentation” of a request for competent authority assistance as discussed in paragraph 16. Under

¹ For adjustments proposed under Article IX for taxation years commencing prior to January 1, 1996, the notification rules of the Second Protocol of the *Canada–U.S. Income Tax Convention (1980)* apply. Taxpayers should carefully examine the notification provisions of the Second Protocol as those provisions differ substantially from the current rules.

Articles IX and XXVI of the Convention, notification to the competent authority must take place within six years from the end of the relevant taxation year. Timely notification ensures that adjustments can be made in order to provide relief, regardless of whether the particular taxation year is statute-barred domestically. If the notification is not received within the six-year time limit, the competent authority is under no obligation to consider the case.

68. Under either Article IX or XXVI of the Convention, the Canadian Competent Authority may also agree to consider cases where notification of the adjustment has not been filed with the Canadian Competent Authority within the six-year time limit specified in the Convention as long as the taxpayer's return is not otherwise domestically statute-barred in Canada. However, the ability of the Canadian Competent Authority to implement any competent authority settlement will be subject to the time limit for reassessments under the Act.

69. Under Article IX, where one country makes or proposes an adjustment, the competent authority of the other country will, despite any time or procedural limitations in its domestic law, make a corresponding adjustment to the income, loss, or tax of the related taxpayer if:

- it agrees with the adjustment; and
- it has been notified of the adjustment within six years of the end of the taxation year to which the adjustment relates.

If a taxpayer fails to notify the competent authority of the other country within the time limit specified by the Convention, there is no requirement under Article IX for the competent authority of the adjusting country to withdraw the adjustment.

70. Under Article XXVI, a case is first presented to the taxpayer's country of residence, or if the taxpayer is not a resident of either Canada or the United States, the country of which the taxpayer is a national. Where the competent authority of the other country is notified of a case of taxation not in accordance with the Convention within six years from the end of the taxation year to which the case relates, the competent authorities shall endeavour to reach and implement a mutual agreement for resolution of the case despite any time or procedural limitations in the domestic law of either country.

71. Under Article XXVI, a United States resident must approach the United States competent authority for assistance. However, administratively Canada will also allow a United States resident to directly approach the Canadian Competent Authority where an application for the refund of Part XIII tax withheld by Canada on interest, dividends or royalties is submitted beyond the two year domestic time limit set out in subsection 227(6) of the Act. The United States resident requesting such relief from the Canadian Competent Authority must do so within the six-year period specified in the Convention. (If within the two-year limit, a

taxpayer should submit a form NR7-R, *Application for Refund of Non-Resident Part XIII Tax Withheld* to the International Tax Services Office of the CRA.

(<http://www.cra-arc.gc.ca/E/pbg/tf/nr7-r/README.html>)

Deferred Recognition of Profits, Gain or Income Pursuant to Paragraph 8 of Article XIII – Gains

72. A U.S. resident may enter into corporate or other reorganizations, amalgamations, or similar transactions that result in the recognition of profit, gains or income in Canada under the Act in respect of dispositions or deemed dispositions of Canadian subsidiaries, assets or business operations of the United States resident. In many instances, the Convention will not preclude Canadian taxation of such profits, gains or income at the time of these transactions.

73. The recognition of the profit, gain or income from a corporate or other reorganization or other transaction may be deferred in the United States in accordance with the provisions of the *Internal Revenue Code*. If the disposition is not recognized for tax purposes in the United States in the same taxation year as it is in Canada, a timing mismatch on the application of foreign tax credits may occur, potentially giving rise to double taxation.

74. Paragraph 8 of Article XIII of the Convention (Article XIII(8)) applies to corporate or other organizations, reorganizations, amalgamations, divisions or similar transactions and allows for a deferral of recognition of the profit, gain or income resulting from the disposition of property for Canadian income tax purposes. If requested by the acquirer of the property, the Canadian Competent Authority may enter into an agreement with the acquirer to defer the recognition of the profit, gain or income in accordance with Article XIII(8) of the Convention and section 115.1 of the Act.

75. Generally, the acquirer may make a request for an agreement provided that the vendor is not exempt from taxation in Canada in respect of the disposition.

Eligibility

76. The Canadian Competent Authority will consider agreeing to a deferral where the following conditions are met:

- a) there is evidence that the purpose of the reorganization is commercially motivated;
- b) a deferral is required to avoid potential double taxation;
- c) a deferral would be available if the acquirer and vendor were residents of Canada, i.e., there is a similar deferral provision in the Act that would be applicable to the particular type of reorganization if it involved only residents of Canada;
- d) there is no applicable deferral provision in the Act that may be used;

- e) the transaction for which a deferral is sought is not specifically prohibited or precluded for non-residents on a deferred basis under the Act. These agreements are intended to apply to non-residents for whom Canadian deferral rules are not available. However, where Canadian deferral rules would be available to non-residents but the Act specifically prohibits a deferral, an agreement will not be considered. For example, paragraph 85(1.1)(a) of the Act precludes a non-resident from utilizing subsection 85(1) to roll over capital property that is real property to a taxable Canadian corporation;
- f) the reorganization does not include a disposition that could be considered to result in, or effectively result in, an actual economic realization of proceeds of disposition, i.e. cash, or property easily convertible to cash, is exchanged;
- g) Canadian tax claims after the reorganization are not placed at a greater risk than before the reorganization;
- h) in the opinion of the Canadian Competent Authority, no component of the reorganization or other transaction constitutes an avoidance transaction as defined in subsection 245(3) of the Act; and
- i) the Canadian Competent Authority can administer the agreement. Where a particular agreement requires numerous conditions and reporting requirements to ensure proper tracing of a subsequent disposition, the Canadian Competent Authority may consider the prospective agreement to be incapable of being administered and may choose not to enter into an agreement.

The above list is not intended to be exhaustive. There may be other conditions, depending upon the details of the transactions.

77. The terms “profit”, “gain” and “income” refer to the profit, gain or income, respectively, realized net of losses for all properties disposed of, computed in accordance with the Act. The transaction must otherwise result in a net profit, gain or income in Canada for the vendor from the disposition of the property in order for a request for deferral to be considered.

78. A submission may be made by the acquirer to the Canadian Competent Authority requesting a deferral with respect to a reorganization that is either proposed or is in the process of being completed. An informal opinion from the Canadian Competent Authority may also be sought by a vendor to determine whether or not a proposed transaction would be considered acceptable for a deferral. However, an agreement cannot be concluded in respect of a contingent or hypothetical situation.

79. Whether the Canadian Competent Authority accepts or denies a request for deferral under Article XIII(8) of the Convention is discretionary. Where a request for deferral is accepted, the Canadian Competent Authority will only provide a deferral to the extent necessary to avoid double

taxation. A decision by the Canadian Competent Authority not to enter into an agreement is not subject to appeal under the Act or the Convention.

Information to be Included in a Request for Deferral

80. A request to the Canadian Competent Authority for consideration under Article XIII(8) should be made in writing and should include the following facts and analyses:

- a) the names and identifying information, including a tax identification number, of all corporations or other organizations involved in the reorganization, and a description of the relationship between them;
- b) a description of the transactions concerned and an explanation of the purpose and extent of the reorganization, including transactions that do not require deferral under Article XIII(8) of the Convention;
- c) a full organization chart before and after all transactions;
- d) the cost amount of the property disposed of;
- e) the estimated fair market value of the property disposed of;
- f) a schedule listing all property disposed of, along with a calculation estimating the profit, gain or income that would otherwise be recognized from the disposition;
- g) a detailed analysis of the Canadian income tax provisions which apply to the transactions;
- h) a detailed analysis of the application of the non-recognition provisions of the *Internal Revenue Code*, including any rulings or opinions received from the Internal Revenue Service (IRS);
- i) a copy of any previous competent authority agreement that the acquirer has entered into under Article XIII(8) with respect to the property;
- j) in the absence of confirmation from the IRS, an opinion that the transaction for which deferral is sought in Canada is a non-recognition transaction under the *Internal Revenue Code*; and
- k) if consent has not already been provided for a person to act as an authorized representative, a signed statement that the representative is authorized to act for the taxpayer in making the request.

The above list is not intended to be exhaustive. The Canadian Competent Authority may seek additional information or clarification if necessary.

81. Agreements concluded by the Canadian Competent Authority will be subject to a number of conditions. One condition is that the Canadian Competent Authority receives confirmation from the U.S. competent authority that the reorganization meets the non-recognition test under U.S. income tax law. Other conditions include provision for immediate recognition of the deferred profit, gain or income in Canada if there are changes to the Convention or U.S. income tax law that would negatively impact the subsequent

Canadian taxation of the disposition, if the acquirer ceases to be a United States resident, or if a property ceases to meet the definition of real property situated in Canada pursuant to a transaction to which section 245 of the Act applies.

82. The agreement, in and of itself, constitutes a waiver under subparagraph 152(4)(a)(ii) of the Act. If for any reason the deferral portions of the agreement are determined to be null and void or the terms and conditions of the agreement are not complied with, the waiver itself will remain valid and the profit, gain or income will be subject to taxation in the year in which the property was disposed of by the vendor.

83. Once the Canadian Competent Authority is satisfied that a deferral of the profit, gain or income from the transaction should be allowed, an agreement will be drafted and forwarded to the U.S. competent authority for review of the U.S. income tax consequences. When the signed agreement is received from the non-resident taxpayer, it will be forwarded to the Tax Services Office responsible for administering it. However, a Certificate of Compliance (Form T2064, *Certificate – Proposed Disposition of Property by a Non-Resident of Canada*, for proposed dispositions and Form T2068, *Certificate – The Disposition of Property by a Non-Resident of Canada*, for actual dispositions) will not be issued until such time as confirmation is received from the U.S. competent authority that the transaction meets the non-recognition test under U.S. income tax law.

84. Generally, an agreement will require the non-resident to confirm on an annual basis that there has been no change to the corporate structure or ownership of the assets that are the subject of the agreement.

85. An agreement is solely for the purpose of eliminating the timing mismatch. The terms and conditions of an agreement between the Canadian Competent Authority and the taxpayer are binding on the parties, and will be implemented in accordance with section 115.1 of the Act.

Treatment of United States S Corporation Income Pursuant to Paragraph 5 of Article XXIX – Miscellaneous Rules

86. A Canadian resident that is a shareholder of a United States S corporation is subject to U.S. tax on its share of the corporate income when it is earned by the S corporation. For Canadian tax purposes, the income is taxable in Canada only when distributed by the S corporation to the shareholder. This can result in a timing mismatch that may result in double taxation if no foreign tax credit relief is available.

87. The shareholder may request assistance pursuant to paragraph 5 of Article XXIX of the Convention. Under this provision, the Canadian Competent Authority may, subject to terms and conditions, agree to allow the taxpayer to treat its share of the S corporation income as foreign accrual property income (FAPI) that is taxable in the shareholder's hands in the year earned by the S corporation, thereby eliminating the

timing mismatch. The shareholder may then claim a foreign tax deduction or credit in Canada for the U.S. tax paid on its share of the corporation's income. The adjusted cost base of the shares of the S corporation owned by the shareholder will be increased by amounts included in the shareholder's income as FAPI. When a dividend is paid to the shareholder, it will be excluded from the shareholder's income in Canada but will reduce the adjusted cost base of the shares.

88. An agreement is solely for the purpose of eliminating the timing mismatch. The terms and conditions of an agreement between the Canadian Competent Authority and the taxpayer are binding on the parties, and will be implemented in accordance with section 115.1 of the Act.

Deferral of Canadian Tax at Death Pursuant to Paragraph 5 of Article XXIX B – Taxes Imposed by Reason of Death

89. Under the Act, immediately before death, a taxpayer (including a non-resident taxpayer) is deemed to have disposed of each capital property owned at that time and to have received proceeds of disposition equal to the fair market value of each such property at that time. However, subsection 70(6) of the Act allows for a deferral of the deemed disposition of capital property owned by the taxpayer where the property was transferred to the taxpayer's Canadian resident spouse or common law partner, or to a Canadian resident trust created by the taxpayer's will under which the spouse or common law partner is indefeasibly entitled to all of the income of the trust and in which no other person may obtain or use the trust's income or assets before the death of the spouse or common law partner.

90. Under paragraph 5 of Article XXIX B of the Convention, a taxpayer who was a resident of the United States immediately before death, shall be deemed, along with his or her spouse, to have been resident in Canada immediately before the taxpayer's death. As deemed residents of Canada, the taxpayer and his or her spouse or common law partner are entitled to the rollover provided under subsection 70(6) of the Act.

91. Paragraph 5 of Article XXIX B also allows the trustees of a United States trust of a nature similar to trusts described in subsection 70(6) of the Act to request that the Canadian Competent Authority treat the United States trust as a resident of Canada for the purposes of the Act. Subject to the terms and conditions of the agreement between the Canadian Competent Authority and the trustee, treatment of the trust as a resident of Canada will entitle the trust to a subsection 70(6) rollover. The terms and conditions of an agreement between the Canadian Competent Authority and the trustee are binding on the parties, and will be implemented in accordance with section 115.1 of the Act.

92. An agreement will not provide any treaty benefits to the taxpayer other than the deferral of Canadian taxation.

Transmissions by Email and Facsimile

93. The Competent Authority Services Division will receive competent authority requests and related information by email and/or fax if a taxpayer is prepared to accept the risk of possible loss of confidentiality involved due to the unsecure nature of email and facsimile transmissions. When a request is made by email or fax, the original documents and other information described in paragraph 19 should subsequently be submitted by traditional mail or courier. The taxpayer/representative must provide a return mailing address where the response can be sent and a telephone number where he or she may be reached during normal working hours. The centralized email address and fax number for the Competent Authority Services Division are:

Email: MAP-APA.PAA-APP@ccra-adrc.gc.ca

Fax: (613) 990-7370

94. Generally, the Competent Authority Services Division does not use email to reply to competent authority requests. However, upon request, we will email or fax correspondence in most cases provided authorization has been received to do so and the risk inherent in making the transmissions has been accepted by the taxpayer/representative. The authorization must be signed by the taxpayer or the authorized representative of the taxpayer. While due care will be exercised in transmitting correspondence, there is an element of risk of possible loss of confidentiality. The authorization to email or fax a reply to a competent authority request should be submitted with the other documents described in paragraph 19. A standard authorization for email and facsimile transmissions is included in Appendix A.

Other References

95. The topic of this information circular relates to issues addressed by the publications noted below. Information contained in this circular complement, and should not be considered a substitute for the criteria, procedures, and requirements specified in the current versions of these documents:

- Information Circular 94-4R, *International Transfer Pricing: Advance Pricing Arrangements*
(<http://www.cra-arc.gc.ca/E/pub/tp/ic94-4r/README.html>)
- Information Circular 87-2R, *International Transfer Pricing*
(<http://www.cra-arc.gc.ca/E/pub/tp/ic87-2r/README.html>)
- Information Circular 98-1R, *Collections*
(<http://www.cra-arc.gc.ca/E/pub/tp/ic98-1r/README.html>)
- Interpretation Bulletin IT-221R, *Determination of an Individual's Residence Status*
(<http://www.cra-arc.gc.ca/E/pub/tp/it221r3-consolid/README.html>)

Further Contact

96. If you have any comments, feedback or questions about this circular or the services of the Competent Authority Services Division, telephone (613) 941-2768, email us at MAP-APA.PAA-APP@ccra-adrc.gc.ca, fax to (613) 990-7370, or write to us at the address noted in paragraph 5.

APPENDIX STANDARD AUTHORIZATION FOR EMAIL AND FACSIMILE TRANSMISSION

The following authorization must be included with all requests where the requester wishes the Canada Revenue Agency (CRA) to email and/or fax correspondence:

Re: Competent Authority Request

Name: (Name of taxpayer)

I hereby authorize the CRA to email and/or fax all correspondence concerning the competent authority request, made on behalf of the above-noted taxpayer. The correspondence is to be transmitted to email address (insert email address) and/or fax number (insert number).

I am aware that the CRA does not provide assurance with respect to the protection, confidentiality, or security of email or facsimile transmissions. I accept the risks inherent in sending information by email and/or fax. I agree not to hold the CRA or its employees liable for any damage or loss, however, caused, arising out of the email and/or facsimile transmissions of correspondence related to my competent authority request.

Check one of the following boxes:

This authorization is for correspondence by email only.

This authorization is for correspondence by fax only.

This authorization is for correspondence by email and fax.

Requester's name

Requester's signature

Date