



January 25, 2013

Office of the President and
Chief Executive Officer

Cabinet du président
et chef de la direction

The Honourable James M. Flaherty, P.C., M.P.
Minister of Finance
Department of Finance Canada
L'Esplanade Laurier
140 O'Connor Street
Ottawa, ON K1A 0G5

Dear Minister:

Re: Subsection 225.1(7) of the *Income Tax Act*

In recent years, the federal government has made significant progress to improve the competitiveness of Canada's business tax system. These efforts have been instrumental in stimulating private sector job creation and promoting investment.

To further enhance Canada's position as a business-friendly tax jurisdiction, I urge you, Minister, to champion appropriate changes to the *Income Tax Act* in Budget 2013.

Section 225.1 of the *Act* restricts the Canada Revenue Agency's ability to take collection action for amounts owned by a taxpayer during the first 90 days after the mailing of the relevant reassessment or during the period in which the taxpayer is pursuing an objection or court appeal of the reassessment. However, for a taxpayer that is a "large corporation" – i.e. one that has over \$10 million worth of assets in Canada – the CRA is permitted to collect 50 per cent of the taxes under dispute pursuant to subsection 225.1(7) of the *Act*.

It is my understanding that subsection 225.1(7) was enacted because there was some concern that large corporations were objecting to assessments to delay the payment of taxes without specifying the grounds for the objection. This concern has now been addressed in subsection 165(1.1) of the *Act* which requires large corporations to specify the grounds of their appeal in a high level of detail – by providing proper documentation and credible evidence in support of the taxpayer's position. Thus, the original rationale for requiring large corporations to pay 50 per cent of amounts in dispute may no longer be valid.

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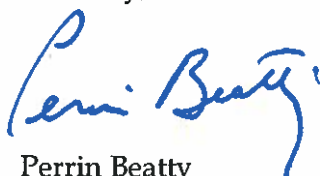
Additionally, when subsection 225.1(7) was enacted, the rate of interest on overpayments and underpayments of tax was the same. At present, the prescribed annual interest rate that applies to any amounts owed to the CRA is 5.0 per cent while the CRA pays 1.0 per cent interest on any amounts it owes to individuals and corporations. With a four percentage point spread between the interest rate on overdue taxes and the rate on overpaid taxes, large businesses have a strong incentive to pay 100 per cent of taxes under dispute to avoid high interest charges. This, too, has removed the original policy impetus for subsection 225.1(7).

Finally, Canada's practice appears to be inconsistent with that of other major nations, including the United States and the United Kingdom. The United States, for example, does not allow for the collection of taxes during the appeal processes, unless the regular assessment procedure would endanger its collection.

Minister, I urge you to repeal subsection 225.1(7) of the *Income Tax Act*. Forcing large corporations to pay one-half of the taxes in dispute, only to receive a low interest rate on overpayments of tax if they are ultimately successful in defending their position is seen by businesses and their non-resident parent corporations as being punitive in nature and as an unfair impediment to conducting business in Canada. It also ties up money (possibly millions of dollars) that could otherwise be used to invest in, and expand their business.

I hope my comments have been helpful. I, along with our members, would be pleased to work with you to offer any further assistance.

Sincerely,



Perrin Beatty
President and Chief Executive Officer

cc: The Honourable Gail Shea, P.C., M.P., Minister of National Revenue