CHARTERED PROFESSIONAL ACCOUNTANTS CANADA
COMPTABLES PROFESSIONNELS AGRÉÉS CANADA

Chartered Professional Accountants of Canada
277 Wellington Street West Toronto ON CANADA M5V 3H2
T. 416 977.3222 F. 416 977.8585
www.cpacanada.ca

Comptables professionnels agréés du Canada
277, rue Wellington Ouest Toronto (ON) CANADA M5V 3H2
T. 416 977.3222 Téléc. 416 977.8585
www.cpacanada.ca

2023 CPA Questions to CRA

Introduction: Earlier this year, CPA Canada and the CPA Provincial Accounting Bodies worked together to canvas members across Canada for questions they wanted to ask the Canada Revenue Agency (CRA). From this, the top questions were provided to CRA and their responses (in blue) are in this document. We will continue to work with CRA on some of the issues highlighted here and we encourage you to check our Tax News Page and Tax Blog for any developments.

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1) Update on Audit Initiatives

a) Can CRA provide an update on its efforts in the detection of property flipping and unreported real estate transactions? What activities has CRA undertaken and will these activities continue? What learnings can CRA share?

Response:
The CRA is actively engaged in enhancing its ability to detect property flipping and unreported real estate transactions.

To address the increased potential for tax non-compliance in the real estate sector, the Minister of National Revenue was mandated to "strengthen the work of the CRA to improve its capacity to audit real estate transactions." To achieve this mandate, the CRA developed a Real Estate Action Plan to improve tax compliance related to real estate transactions.

As part of this Action Plan, all areas of the CRA are working together to identify risks and address tax non-compliance in real estate activities, including property flipping and unreported real estate transactions.

Our ongoing efforts include:

- *Using advanced analytical techniques to identify taxpayers that engage in real estate, including non-resident and GST/HST populations.*
- *Conducting public opinion research to better understand factors that contribute to non-compliant behaviour and how non-compliant behaviour has evolved over the years.*
- *Leveraging new data analysis techniques that combine and connect large volumes of taxpayer information to show relationships that are difficult to identify using traditional risk identification techniques.*
- *Delivering more education and outreach through the Liaison Officer Service to help taxpayers better understand their tax obligations related to real estate issues including, but not limited to, property flipping.*
- *Implementing a compliance program in respect of the Underused Housing Tax (UHT), the annual 1% tax on the ownership of vacant or underused housing in Canada. The CRA has provided educational outreach activities to ensure owners are aware of their UHT responsibilities. Web content is available on Canada.ca, including FAQs and technical notices to assist taxpayers in determining their UHT obligations.*

- *Conducting stakeholder engagements in order to foster an open dialogue with external stakeholders involved in real estate matters and to improve public trust in the integrity and fairness of the CRA.*

b) What activities has CRA undertaken in its efforts in the detection of unreported cryptocurrency transactions? Are there current learnings that CRA can share and how might CRA be evolving its activities?

Response:
In 2018, the CRA established a dedicated crypto-asset unit to build intelligence and conduct audits focused on risks related to crypto-assets.

This unit has initiated compliance activities on various areas within the crypto-asset sector. This includes individuals investing and trading in crypto-assets as well as entities involved in other commercial activities such as mining, token development, and the provision of crypto-asset services. Our early compliance efforts have revealed several areas of potential risk including: the under-reporting of income or gains from crypto-asset dispositions, the use of crypto-assets to move funds offshore, and complex cross-border structures.

As part of its efforts to address these challenges within the crypto-asset space, the CRA ensures to remain informed of economic trends and monitors how crypto-assets affect the way Canadians do business. We also rely on a number of tools to detect Canadian taxpayers and registrants participating in crypto-asset transactions. This includes the use of numerous internal and external data sources. For example, the CRA analyzes third-party data to detect possible non-compliance involving crypto-assets, including cryptocurrencies. Information obtained through data sources, together with data submitted to the CRA as part of tax reporting obligations, is used to determine a taxpayer or registrant's overall compliance profile. In addition, the CRA engages with domestic and international partners to share best practices and exchange data, and continues to develop communication products, such as the Guide for cryptocurrency users and tax professionals, to keep taxpayers informed of legislative developments and their reporting requirements.

c) Please provide an update on CRA's education letter campaign relating to identifying returns that have a high risk of error and then encouraging taxpayers to correct them voluntarily.

Response:
Our Assisted Compliance (AC) program has been working on addressing non-compliance through a tailored, education-first approach that encourages taxpayers to self-correct any errors on their tax filings.

With AC, CRA officers send letters to the taxpayers and follow up with a phone call to discuss and answer any questions they may have about their tax obligations or make corrections where warranted.

So far, taxpayer response to this program has been very positive and we will continue to use the results from the various campaigns and feedback received to fine-tune the service offered and the process for future campaigns.

2) Future of Desk Audits and other Remote Work

a) Given CRA's experience with desk audits and other activities over the pandemic, can CRA provide some guidance on how audits and similar verification and enforcement activities (e.g. matching program, pre- and post-assessment reviews of T1 and T2 filings) will be conducted in the future?

Response:
With advancements in technology, the CRA can now achieve significant audit work without being at the taxpayer's place of business. As such, the CRA has adopted a hybrid audit approach with a mix of both in-person and virtual auditing, as deemed appropriate by our auditors. The combination of in-person and remote audit activities is determined on a case-by-case basis, given the specific facts and circumstances of each file. It also depends on the taxpayer's electronic documents and technology and takes into account the taxpayer's own hybrid work models.

b) How will CRA be dealing with data security as CRA agents work from home? How will agents access physical files to ensure items are not missing from the electronic files?

Response: (CISD)
Remote work has been an integral part of the Canada Revenue Agency's (CRA) internal systems and security controls for many years. The CRA has strict safeguards ensuring personal information is secure and that employees are well-trained and diligent in their efforts to protect the information that is in their care. We have continually taken measures to advance our technology use to support cybersecurity enhancements for Data Loss Prevention solutions, increased system monitoring and controls, and leveraged proactive security practices, such as Penetration Testing.

In addition, security often comes down to people. All CRA employees working remotely must also adhere to a Work Arrangement Agreement, which includes a security inspection checklist to determine if their remote workspace meets the required security standards. Employees with the capacity to telework, or work offsite, connect remotely to the CRA network through a fully secure virtual private network and must use CRA-approved equipment with appropriate safeguards. CRA employees are given training with specific guidance and best practices on how to securely manage sensitive information and must access, assess, and safeguard taxpayer information accordingly to ensure that:

- *taxpayer documents and information are not in view of unauthorized individuals;*
- *taxpayer information and unencrypted devices are stored in a locked drawer or security container, or in a locked office with no access to unauthorized individuals;*

- *the use of paper documents is avoided, wherever possible; and*
- *access to any CRA or taxpayer information and assets is provided on a need-to-know basis.*

Family, friends, roommates, and any other people who interact with an employee or are around an employee's telework space are considered unauthorized individuals and must never have access to CRA information or assets, including equipment and devices.

For more information about how the CRA secures taxpayer information, please go to Security of Taxpayer Information - Canada.ca***.***

3) Meetings With Team Leaders

At conferences and other forums, senior CRA officials often confirm that it is CRA policy that auditors, appeals officers and other agents should facilitate meetings or discussions with their supervisors/team leaders where requested by the taxpayer or their representative. However, members report occasional experiences with CRA agents who are unwilling to facilitate such meetings. In some instances, the supervisor's contact information is available from CRA correspondence, but this is not universal.

a) Does the CRA have a policy of facilitating meetings/discussions with team leaders and other supervisors?

Response:
Team leaders are required to visit their team members in the field on a regular and routine basis. Team leaders should also schedule on-site visits to the taxpayer in collaboration with the team member.

On-site visits allow the team leader to meet with the taxpayer or representative and discuss the audit, deal with any concerns or complaints expressed by the taxpayer, and observe how the auditor interacts with the taxpayer.

If necessary, the team leader will attend the final interview with the taxpayer or their representative when significant changes or complex or controversial issues are identified.

The taxpayer and/or the representative can also call the team leader using their contact information provided in the letters they received.

Meetings can take place at a CRA office, online via Microsoft Teams, or at the taxpayer and/or representative's office.

b) How is this communicated to CRA agents?

Response:
The CRA has manuals and training to guide the communications responsibilities of auditors. This includes processes for auditors to inform their team leaders of any significant issues that occur during an audit.

Taxpayers and/or representatives can also meet with the supervisor or team leader by requesting a meeting from the auditor or reaching out directly using available contact information.

c) What steps should taxpayers or their representatives take in the event a CRA agent refuses to arrange such a meeting or discussion?

Response:
Taxpayers and representatives can reach out to the supervisor directly using contact information on written correspondence.

Taxpayers can also ask the auditor for contact information related to the supervisor or team leader.

They can also contact the CRA and mention their need to talk/meet with the supervisor. The call center agents will contact the supervisor for them and will require a call back from the supervisor.

In the event that a resolution has not been found, another course of action is to submit service feedback.

4) Capital Dividend Accounts

Can CRA clarify what the procedures and policies are with respect to capital dividend elections, and in particular what correspondence is sent to the corporation? In particular, please provide clarification on:

a) Whether it is CRA's policy is to issue either an assessment or a notice that no tax is payable (for Part III tax) for every capital dividend election filed?

Response: For every capital dividend election filed, a letter is issued to indicate that there is no tax payable, if applicable.

b) If there is an excessive election and the S.184(3) election is made, does the corporation have to file a T5 or amend a T5 filed previously for taxable dividends?

Response: A T5 is not requested when there is an excessive election and the S.184(3) election is made.

c) What are the target and actual response times currently?

Response: CRA does not have published service standards for these elections.

5) Exempt Income

Many status Indians earn income situated on a reserve. The T4 slip provides the ability to disclose income exempt from tax for this reason. However, most other slips do not. Members have indicated they are seeing an increasing group of seniors who worked all their lives on reserve and were part of a pension plan. Often, that plan pays out their entitlement to an RRSP or RRIF (or the RRSP funds eventually get transferred to a RRIF). Because there is no way to indicate on the slips that this income is exempt, similar to a T4 slip, these individuals are commonly assessed by CRA (when they had insufficient taxable income to be taxable, and were therefore not required to file a return – although they should, to receive benefits), reassessed in the matching process (where income was omitted because it is non-taxable) or required to provide support for the "other deduction" claimed for income situated on a reserve (where the income was reported and an offsetting deduction claimed to avoid the matching assessment).

Will the CRA consider how this process can be streamlined? We recognize that it would be difficult for issuers of many slips to have sufficient knowledge of the underlying income to assess factors connecting the income to a reserve. One suggestion is to allow taxpayers to mark this income as exempt when filing a T1 and then CRA can decide on whether they want to ask for documentation to prove it is exempt income. Should CRA ask for documentation in such a situation, the information request could be narrowly tailored to proving exempt income for the specific income type, removing the need for 2-3 rounds of follow-up correspondence.

Response:
Since 2019, Form T90 has been available to allow individuals that are registered or entitled to be registered under the Indian Act to report and calculate their net exempt income when it is situated on a reserve. For the 2023 tax year, the CRA is considering the addition of a dedicated line on the Form T90 for an individual to report RSP or RIF exempt income.

For a complete description of the guidelines and examples where income (including pension transfers from an RPP to an RRSP/RRIF) is exempt and where it is taxable, go to canada.ca/section87-tax-exemption.

Since net exempt income is not reported on an Income Tax and Benefit Return (return), the Canada Revenue Agency (CRA) will need this information to calculate an individual's Canada workers benefit, if applicable, and their family's provincial or territorial benefits. The information on this form will also be used to calculate their Canada training credit limit for the subsequent tax year.

6) *Research Grants*

The recipient of a research grant is required to report the income only to the extent that it exceeds expenses incurred in the performance of the research. Often, this means no income is required to be reported. However, T4A filings are required. There is presently no mechanism to indicate that the research grant was received and was not in excess of expenses incurred. Could a line be added to the T1, and an efile field to the data transmitted, to show the gross research grants received, and avoid later matching reassessments?

Response:
The Matching Program reviewed less than 700 files related to Research Grant income in the last three years. The Matching technical operations manual has instructions that require a field agent to contact the taxpayer or their representative when there is a discrepancy on line 10400 related to the amount indicated at Box 104 - Research grants of the T4A slip. Adding a new line to the T1 Return or an efile field, would require a significant investment to the CRA, and recorded volumes do not support such a change. The Matching program will reiterate to its field agents the importance of following the instructions from the technical operations manual, and to establish contact with taxpayers before proceeding with a reassessment.

7) *Home Office Expenses*

The simplified method of calculating home office expenses that was allowed for 2020 – 2022 T1 filings was a temporary measure which deviated from the legislation so, absent an amendment to the Act, we assume the detailed method will be required in 2023 and subsequent years.

a) Could CRA confirm this and also that employees will require a T2200 certifying that they were required to work from home, and the requirements of subsection 8(13) must be met.

b) Could CRA please also provide this information and guidance on the CRA website?

Response:
In response to the COVID-19 pandemic, a temporary flat rate method was introduced to provide eligible employees with a simpler way to deduct home office expenses (work-space-in-the-home expenses and office supply and phone expenses). The temporary flat rate method can only be used for the 2020, 2021 and 2022 tax years.

This information is provided in the response to the question "Will the temporary flat rate method be extended past 2022?" in the "Frequently asked questions" section of the Home office expenses for employees webpage. The CRA reviews this webpage annually in advance of the personal income tax filing season. As such, we encourage taxpayers to visit the Home office expenses for employees webpage for the most up to date information available.

In the absence of any future change to the Home office expenses for employees webpage, for 2023 and subsequent tax years, eligible employees seeking to deduct home office expenses must currently use the detailed method and meet certain conditions in the Income Tax Act (Act).

Subparagraph 8(1)(i)(iii) of the Act allows for the deduction of work-space-in-the-home expenses (i.e., supplies consumed directly in the performance of the duties of employment), where an employee was required by contract of employment to supply and pay for those expenses, the expenses are reasonable, and the employee was not provided a reimbursement by their employer for these expenses.

Generally, a salaried employee may deduct home office expense under subparagraph 8(1)(i)(iii) of the Act if the conditions in that subparagraph, and those in subsections 8(10) and 8(13) of the Act are satisfied.

More specifically, subparagraph 8(13)(a)(i) of the Act provides that expenses which are otherwise deductible under subparagraph 8(1)(i)(iii) of the Act cannot be deducted as work-space-in-the-home expenses unless the work space is the place where the employee principally (i.e., more than 50%) performs their duties of employment. This condition will be met by employees who were required to work from home more than 50% of the time for a period of at least four consecutive weeks in the year.

Where the conditions in subparagraph 8(1)(i)(iii) of the Act are met by an employee, subsection 8(10) of the Act further requires that Form T2200, Declaration of Conditions of Employment, be completed by their employer to certify the conditions of employment. However, a completed Form T2200 does not provide an employee with any assurance that the expenses paid are deductible, since the Act contains other criteria that the employee must satisfy.

For more information about using the detailed method to claim home office expenses, please refer to the Home office expenses for employees webpage or Guide T4044, Employment Expenses.

8) Automobile Expenses

As more and more employees move to a fully remote work arrangement but occasionally have to go into the office, one question that has arisen is whether the automobile expenses incurred by an employee travelling to the office from their home office is deductible. There have been some recent tax court cases which deal with this issue, see for example *Gardner v The Queen*, 2020 TCC 108. Could CRA provide guidance on whether automobile expenses incurred to travel to the office are deductible employment expenses where the employee primarily works from home?

Response:
It is the longstanding position of the Canada Revenue Agency (CRA) that traveling between an employee's home, including a home office, and a regular place of employment (RPE) is generally considered personal travel, and that any expenses related to that travel are personal expenses. However, where an employee (as required by the employer or with the employer's concurrence) proceeds directly from home to a point of call other than the employee's RPE, or returns home from such a point, such travel is considered employment-related.

A RPE is any location where an employee regularly reports for work or performs the duties of employment. In this case, "regular" means there is some degree of frequency or repetition in the employee's reporting to that particular location in a given pay period, month, or year. This "place" does not have to be an establishment of the employer and may include a client's premises. For example, a work location may be considered to be a RPE of an employee even though the employee may only report to work at that particular location on a periodic basis (e.g., once or twice a month) during the year. Depending on the circumstances, an employee may have more than one RPE. Multiple RPEs may occur where an employee is required to report to more than one work location to perform the duties of employment.

While we recognize that the Tax Court of Canada's decision in Gardner v The Queen¸2020 TCC 108 (Gardner) held that motor vehicle expenses related to an employee's travel between their home office and the employer's principal place of business were deductible employment expenses under paragraph 8(1)(h.1) of the Income Tax Act (Act), this case was heard under Informal Procedure. Moreover, since section 18.28 of the Tax Court of Canada Act states that informal decisions are not to be treated as a precedent for any other case, the CRA's general position on travel between an employee's home or home office and a location that is a RPE for that employee remains unchanged.

However, where it can be established that an employee's circumstances are factually similar to Gardner and all of the requirements in paragraph 8(1)(h.1) and subsection 8(10) of the Act are met, such motor vehicle expenses incurred by an employee would be deductible as employment expenses.

9) Automatic Adjustments

In some cases, it has been noted that CRA may automatically adjust (without input from the taxpayer) corporate returns for items such as increasing usage of the small business deduction (SBD). While these changes are likely intended to be helpful, they can cause problems where, for example, less than the full SBD available was intended to be used. For example, this could occur when the taxpayer is subject to the specified corporate income or personal services business income rules.

a) Can CRA share the process and rationale behind this?

Response:
At times we receive different versions of the Schedule 23 that are filed by the various associated corporations listed. CRA's system is programmed to accept the first Schedule 23 that has been filed and apply the reported allocations for the tax year to all listed associated corporations. This may result in different SBD allocations than what the corporations have filed. Unless the second or subsequent filings include a Schedule 23 marked "Amended" at line 75, the allocation reported on the original or "master" schedule 23 will remain. To avoid this situation, ensure that all the associated corporations submit identical versions of the Schedule 23 when filing or amending their T2 returns.

b) What should a taxpayer do to efficiently correct an erroneous automatic adjustment?

Response:
If you identify a corporation that has had the SBD allocation assessed with incorrect amounts, request a reassessment. You will need to provide an amended master agreement that shows the allocation to all associated corporations. You can send an adjustment request to your tax centre and clearly indicate in your request that the SBD allocations are being revised.

If the allocations appear to have been erroneously revised by CRA, the fastest way to notify us of the error would be by using the My Business Account Enquiry service.

10) Returns Efiled in Different Time Zones

Under subsection 150.1(3) of the Income Tax Act, the deemed date of filing for the purposes of section 150, where a return of income of a taxpayer for a taxation year is filed by way of electronic filing, shall be deemed to be filed on the day the Minister acknowledges acceptance of it. The e-file manual indicates that the acceptance is considered to be filed with a confirmation number "generated by EFILE". The guide also speaks about "real-time acknowledgement" and how it is "provided" almost instantly.

In a situation where a return of income, which was due April 30th, and was filed electronically at 11:00pm PDT on April 30th from an office in Vancouver, the CRA provided an e-file confirmation number instantly posting acknowledgement of the return at 2:00am EST on May 1st.

a) Which time zone does CRA use when acknowledging receipt of an electronic transmission?

Response: The acknowledgment of an electronically filed return is issued in Eastern Time.

b) Can CRA accept that all returns filed before 12PM PT are filed on time no matter where they were filed from, at least within Canada?

Response: The deadline for most Canadians to file their return is April 30. Therefore, a return will be considered filed on time if the CRA receives it on or before April 30 in the respective Canadian time zone.

11) IT Support for Represent a Client

CRA's represent a client is a very important tools for advisors. When the system is down or when there are access restrictions, it can be very frustrating for advisors and their clients as there doesn't seem to be any direct access to CRA technical IT support to help users with such issues.

a) Does CRA have IT troubleshooting resources for advisors to help address these issues, beyond calling general enquiries to restore access removed by CRA?

Response:
No. In terms of phone support, calls relating to Represent a Client access related issues should be made to the Individual Tax Enquiries line at 1-800-959-8281. Our telephone IVR menu allows callers to select from a variety of options to be connected with an employee skilled to be able to respond to their enquiry and callers may select the option for online services to connect with a service representative trained to assist them with these enquiries.

In addition, employees on the Business Enquiries line can transfer callers to speak with a service representative that can assist them with access related issues when needed.

b) Could CRA consider implementing a direct support line, separate from general enquiries, dedicated to technical IT issues related to the portals?

Response:
The CRA continues to look for new ways to improve communication with taxpayers and their representatives. We understand the challenges for the authorized representative community, at this time we are not exploring a dedicated e-services phone line. The CRA is expanding its online chat and chatbot services to better serve Canadians including representatives.

12) Misallocated Personal Tax Payments in My Account

In 2023, CRA added a function in My Account to allow allocation of unassigned payments to the appropriate year. However, there is still no ability to correct the allocation of a payment when it has been posted to the wrong taxation year.

a) Will CRA be making this ability available to taxpayers and their representatives, similar to My Business Account? If so, could CRA provide timing of this?

Response:
Currently, taxpayers and their representatives have the ability to transfer their available payment(s) to a tax balance owing or to current year instalments on their own.

We are planning to expand our services to enable taxpayers and their authorized representatives to:

- *Transfer available payment(s) to a COVID-19 individual benefit debt (associated only with COVID-19 benefits originally issued by the CRA), and*
- *Submit requests via the portal to have their payments transferred within their T1 accounts or to other business lines*

b) How does CRA determine an amount should be classified as unassigned, rather than assigned to an existing debt or an instalment account?

Response:
Payments received by the T1 accounting system are applied to taxpayer accounts based on the payment code transmitted by the Financial Input Processing System (system responsible for the processing of payments received from taxpayers). If the system is unable to determine the intended allocation, the payment is then applied to an unallocated payment segment of the account. For example, if a taxpayer selects arrears when making a payment to the CRA, but there is no debt on the account, the payment is directed to the unallocated payment account. Manual analysis is then required to determine the correct allocation of the payment. In some cases, taxpayer contact may be required to help identify the proper allocation.

13) Applying Benefit Payments to T1 Balances

We heard some feedback that the April 2023 Climate Action Incentive Payment was used to pay current 2022 taxes owing when a taxpayer had until April 30, 2023 to pay their balance due.

a) What are CRA's policies where benefit payments like the Climate Action Incentive (CLAI) Payment or GST Credit are due, and the taxpayer has an assessed T1 balance for which the balance due date has not passed, or which was assessed so recently that payments may have been remitted but not applied?

Response:
According to section 164(2) of the Income Tax Act (ITA), some child and family benefit programs, such as the goods and services tax/harmonized sales tax (GST/HST) credit, related provincial/territorial programs and the climate action incentive payment (CAIP), can be used to pay any debt owed to the Canada Revenue Agency (CRA) or its external partners.

However, applying April credits to a current year tax liability is not a standard CRA practice. Improvements have been made to the administration of the CAIP as a benefit program.

The CRA also recognizes that while it has a duty to recover taxpayer debt, there are individuals and families across Canada who continue to experience significant financial hardship. The CRA is sensitive to these cases of hardship. Consequently, provisions are used whenever possible to provide eligible taxpayers with debt recovery relief.

b) Also, what does CRA do with the payment received (for example, if the taxpayer owes $1,000 and was entitled to CLAI of $386, would CRA refund the $386 when they processed the $1,000 payment?)

Response:
Yes, if an offsetting child and family benefit program credit is offset to a debt owed to the CRA and a remittance is also received, the excess amount will be returned to the recipient.

14) Errors in T-Slips

Members have indicated that they are seeing situations where CRA assessors and even Appeals Officers are basing decisions on issued T-Slips without considering the possibility that the issuer made errors in their preparation. In a recent Federal Court decision (https://www.canlii.org/en/ca/fct/doc/2023/2023fc548/2023fc548.html), the failure to consider the possibility that a slip was erroneous was cited in determining that CRA had made an unreasonable decision, resulting in granting Judicial Review. Members indicated that they have also seen situations where T4RSP and T4RIF slips for deemed dispositions on death are mistakenly issued to beneficiaries or executors who remain very much alive.

What messaging does the CRA provide to its agents regarding challenges to the accuracy of such reporting slips? While the ideal resolution would be an amendment by the issuer, not all issuers are prepared to undertake such amendments.

Response:
The Canada Revenue Agency (CRA) understands mistakes may be made when T-slips are prepared. As stated in the recent Federal Court decision (https://www.canlii.org/en/ca/fct/doc/2023/2023fc548/2023fc548.html), it is not the CRA's duty to determine there was an error on a T-slip. The onus is on the taxpayer, who knows their individual situation, to review their T-slips and to take corrective action, as discussed below, if they discover an error. Second review recourse is available to all taxpayers who may have been deemed ineligible for the COVID-19 benefits based on an erroneous T-slip.

To promote consistency and uphold national standards, CRA agents are provided with procedures to assist in their reviews. CRA agents working a taxpayer file are instructed to refer to information available in CRA's records concerning the amounts being reviewed. If it is determined that additional information is required to aid in the review process, contact may be required. Any information that is submitted by a taxpayer or their authorized representative is reviewed. If a T-slip is provided that does not agree with the information currently available within CRA's records, the information is forwarded to the department responsible for verifying the accuracy of the information provided on the slips. Second review is available to all taxpayers who may have been reassessed based on an erroneous T-slip.

Canada's self-assessment system requires the issuer/filer to provide complete and accurate information to enable the CRA to process their return. Once submitted, the CRA will assess the return based on the information provided by the filer and may request additional information where applicable. The CRA will then provide an assessment notice. The CRA may also review books and records, at any point within prescribed time limits, to ensure the accuracy of the information provided. To assist issuers/filers, the CRA provides several tools and resources to help them meet their obligations in the form of guides and various online tools.

As it relates to payroll, if a taxpayer believes that an error has been made with respect to their employment slip or believes that the issuer has failed to file the required information return, the employee should first contact the filer/issuer to attempt to discuss and resolve the issue. If the employee is still unable to resolve the situation, they have the option of filing an employee complaint. Once received, the CRA will investigate and take action to resolve the situation. If there is sufficient evidence to support the employee complaint, the CRA will take the necessary steps to have the errors corrected. In instances where the filer believes that they have made a reporting or filling error, they must submit an amendment to correct the error.

When an information slip is issued, it is sent to the taxpayer and CRA. It is part of the taxpayer responsibilities to verify the validity and the accuracy of the information slip, and if the taxpayer notices an error on the slip, it is expected that the taxpayer will contact the issuer and ask for an amended slip. The CRA cannot validate the accuracy of a slip since the relevant information to do so is retained by the issuer and the taxpayer.

The issuer must have a valid reason to deny a correction request from the taxpayer. When denied without valid reason, the taxpayer can inform CRA by filing an employee complaint with the employer accounts and services section. The validity of the information slip is a shared responsibility between the issuer of the slip and the taxpayer. CRA only matches the information on the slips and the income tax return from both parties and when it doesn't, it requires information from the issuer, the taxpayer or both. In other words, CRA become involves when the CRA notices a discrepancy or when they are notified that the issuer doesn't comply.

From an Appeals Branch (AB) perspective, the burden of proof is often on the taxpayer to demonstrate an error in the CRA assessment/reassessment. The reason for the objection is expected to be provided by the taxpayer. Appeals Officers will investigate the accuracy of an information slip when it is part of the disputed issue/fact. Also, as part of the meaningful contact instructions, an Appeals Officer may provide a copy of the slips in dispute (it is part of the active offer) and ask the taxpayer to provide their representations.

Where a taxpayer believes that an error has been made and is unaware of the process to follow to resolve the issue, they should consult the CRA website, or contact the Business enquiries or Individual enquiries line based on the circumstances of the error.

15) Excess Remittances and NR4

Would the CRA consider adding a check box on the NR4 Summary to transfer excess remittances to the following tax year? It is common for Trusts with non-resident beneficiaries to withhold from distributions in the year assuming that the entire distribution will be from income. Where distributions exceed income, the excess is ideally carried forward to the following year. This would improve efficiencies and reduce costs for both taxpayers and the CRA by reducing the need to issue discrepancy notices.

Response:
We agree to evaluate this suggestion to add a checkbox on the NR4 summary to request the transfer of an overpayment to the following year. Note that we are currently unable to make this change, as our system is undergoing a modernization exercise (Info Dec); however, it will be evaluated upon completion of this project. In the meantime, CRA provides these instructions in the T4061 Guide when an overpayment is reported in Box 84 of the NR4 Summary : Send a note giving the reason for the overpayment and whether you want the CRA to transfer this amount to another account or another year, or refund the overpayment to you. Upon receiving this note, a CRA employee will proceed to transfer or refund the amount of the overpayment, as requested.

16) Communicating with CRA

Our members have highlighted various concerns with CRA communications. We have summarized the concerns into the following questions:

a) There still seems to be long wait times on the phone, and often, after waiting for some time to connect to a CRA agent, members indicate that the call gets cut off mid-discussion inadvertently and the only recourse seems to be calling the general CRA line to go through the whole process again.

Can CRA provide an update on what plans there are to improve service on the general enquiries line. Some suggestions we've received include:

- Implementing a toll-free number where a caller can leave a message for call back. CRA could triage and direct the message to the right department.

- Establishing a secure email system or communication channel within the CRA portals to allow for messages between taxpayers/advisors and its agents

Response:
The CRA is continuously looking at different approaches to improve Canadians' access to the tax and benefit services phone lines. However, service demands do fluctuate, and at times callers experience higher than normal wait times.

Recently, the CRA has taken many steps to improve contact centre services, including:

1. *Increasing service hours - personal income tax, benefit programs and business tax enquiries are now open 12 hours per day (from 8am to 8pm for each respective local time) Monday to Friday, and Saturdays from 9am to 5pm.*
2. *Launching an automated callback feature that gives callers the option to receive a call-back when it is their turn to speak to a service representative, rather than waiting on hold. The callback feature is offered during peak periods on select services.*
3. *Publishing wait times online at canada.ca/cra-telephone-numbers to help callers make an informed decision on the best time to call.*
4. *Piloting an online chat feature on our website to provide an alternative to calling the CRA. This pilot is in its early phases and currently has limited topics available to clients. The online chat feature will expand the available topic selection in the near future.*

We have considered your suggestion to implement a toll-free number where a caller can leave a message for call back, followed by the CRA triaging and directing the message to the right area within the CRA. At this time, there is no such feature that would allow the CRA to efficiently provide this service. However, your suggestion will be taken into consideration as we evaluate the available options to modernize our contact centre technology.

We would also like to remind your members that the CRA is continually enhancing our secure online self-service options on CRA's My Account, My Business account and Represent a client. We are continually adding new services which empower Canadians to resolve most of their basic questions online without the need to speak to a CRA agent.

b) There seems to be inconsistencies in how and when CRA contacts and communicates with taxpayers across different programs and regions, which causes confusion amongst taxpayers/advisors.

Can CRA provide their policies and processes around contacting the taxpayer for the following programs:

- Matching
- T1 pre-assessment
- T1 post-assessment

- T2 post-assessment
- Special assessment program
- Audit
- Objections/appeals

Response: See Appendix A

17) Information Submitted to CRA

a) Currently the Pre and Post assessment program requires that the taxpayer or their advisor submit one response only; accordingly, if a number of items are under review for a taxpayer, the taxpayer or advisor cannot submit until all items and information is available; subsequent submissions will not be considered.

Please comment on the Agency's procedure for processing responses to processing reviews and whether the Agency could give consideration to allowing a number of uploads given there is a unique reference number provided for each processing review.

Response:
All claims under review are reviewed at the same time, therefore, the Pre-Assessment Review and Processing Review Programs recommend that all information required to support a claim be provided in one submission. Otherwise, we will complete our review based on the information we have.

If additional information or documents related to a claim become available, we accept subsequent submissions and will review the claim again however, this may delay the final processing of the return.

For specifics on submitting additional documents, go to the Responding to us - Canada.ca *page or the* Submit documents online - Canada.ca *page.*

It is important to respect timelines as much as possible, but if more time is needed, contact us at the telephone number found at the bottom of our letter.

b) Some members have indicated that they often seem to be contacted by CRA agents with questions on issues that were addressed in letters included with their submission, and the agents have no knowledge of such correspondence. Explanations of amendments which indicate that data not directly impacting a reassessment but impacting other information on CRA's files seem not to be received, resulting in the information on CRA's files not being updated.

Can the CRA comment on how covering letters are handled in general, as similar issues seem to arise with other submissions?

Response:
When assessors in the Individual Compliance Directorate are assigned a file to review a claim, they have access to the entire submission, including cover letters. Assessors should review all information available on file and provided by the taxpayer or their representative before a final letter is sent explaining the changes to a reassessment and/or to an assessment. The letters also include the contact details of the section that worked on the file or the direct contact number of the assessor who worked the file. In addition, if a request does not relate to the verification in question, the request is forwarded to the appropriate section.

18) Electronic Services Enhancements

We received many questions related to CRA electronic services.

a) Many T3 filings require additional support documentation to be submitted with the return. Are there plans for CRA to allow PDF documents to be included with the efiling of T3s? Or, are efiler's able to retain the additional support documentation and efile the T3 return without it? Can CRA share any of its other plans in the T3 Modernization project?

Response:
With certain exceptions, filers are not required to send supporting documentation following the EFILE submission of a T3 return. The supporting documentation should be retained as the CRA may require it to be submitted at a later date. For supporting documentation that needs to be submitted to the CRA, filers can use the Submit Documents feature within one of the CRA's portal services to send an electronic copy of the documentation, including PDF files.

b) Is efiling of T4s and T5s being considered by CRA, instead of web uploads of .XML files? If so, can CRA share timelines? (ePayroll to respond)

Response:
Efiling of T4 is being considered. We cannot commit on any timelines at this stage.

c) What are CRA's plans with respect to the ability for the Underused Housing Tax return to be e-filed?

Response:
Currently, the Underused Housing Tax return can be electronically filed using the external webform (with a digital access code) or through the My Account and My Business Account portals. Electronic filing through software is expected to be added for the 2023 UHT returns due April 30th, 2024. As of early 2024, the UHT return can be e-filed by corporations using certified T2 tax preparation software. As of March 2024, the UHT return can be e-filed by individuals using certified T1 tax preparation software. This is dependent on software developers adding UHT to their software options.

d) On the My Account service, the CRA provides considerable information on amounts carried forward between taxation years, and through the AutoFill My Return service. Would the CRA consider adding details of additional taxes paid due to the Alternative Minimum Tax provisions, and the application of such amounts against taxes otherwise payable in subsequent years? This is often difficult to reconcile, especially where adjustments to prior years impact minimum tax payable or recoverable. Additionally, we would ask that the unused balance be added to the data accessed through AutoFill My Return.

Response:
The CRA is committed to consistently improving and refining its digital services to meet the needs and expectations of taxpayers and tax service providers. Thank you for sharing your suggestions with us to include additional data in the Auto-fill my return service. We will take your suggestions into consideration and look into them further.

19) Special Elections and Returns

The CRA now accepts scanned copies of 47 special elections and returns submitted electronically through the CRA online portals. Can the CRA please comment on the following:

a) In some cases, a payment is required with these filings. For example, a penalty payment is required with a late T2054, or an excessive capital dividend may be subject to Part III tax. Does the payment requirement mean that these elections must be submitted on paper? If not, how is payment to be remitted?

Response:
When a payment is required, the election does not need to be submitted on paper. A payment can be received separately from the election and can be remitted by using the various payment options available on Canada.ca at the following link: Make a payment for individuals - Payments to the CRA - Canada.ca.

b) Would the CRA consider accepting elections or designations which lack a prescribed form in this manner as well? At present, these are commonly submitted on paper, separate from the related return. For corporate elections, the CRA's T2 Guide indicates that they can be included in the EFILE field used for notes to the financial statements.

Response:
If you do not have a prescribed form, election information can be included in the EFILE field used for notes to the financial statements, as indicated in the T2 Guide. This provides additional information on the amounts reported in the T2 return and schedules. A scanned copy of these non-prescribed forms can also be submitted electronically and separately from the T2 return via MyBA.
***Note**: CRA recommends using prescribed forms as provided on the Canada.ca webpage, regardless of how they are submitted.*

c) We understand that forms T2057, T2058 and T2059 can now be filed electronically. These forms require multiple signatures, and it is unclear who should be electronic filing the election. Can CRA provide guidance on who should be filing the election and how to deal with multiple signatures ? Similarly, the efile of such returns carries the same uncertainty over who should sign Form T2183.

Response:
The T2057, T2058, and T2059 elections have to be filed by the transferor or their authorized representative. We currently accept scanned copies of the elections submitted via My Account or My Business Account that are signed before submission. Currently, the T2057, T2058, and T2059 elections cannot be filed through third party software, so the T2183 form is not applicable until this service becomes available.

20) Electronic Signatures

We still get a number of questions from members regarding the use of electronic signatures. We understand that CRA's current administrative policy on electronic signatures is as follows:

Electronic signature measures announced in Budget 2021 have not been enacted, as a result, the CRA is extending its administrative measures for electronic signature on forms:

- *T183, Information Return for Electronic Filing of an Individual's Income Tax and Benefit Return;*
- *T183CORP, Information Return for Corporations Filing Electronically;*
- *T183TRUST, Information Return for the electronic filing of a Trust Return; (NEW for the 2022 filing season)*
- *T2200, Declaration of Conditions of Employment; and*
- *T2200S, Declaration of Conditions of Employment for Working at Home Due to COVID-19.*

In order for the CRA to accept the use of electronic signatures between third parties for these forms, it is expected that identity verification has been performed by the party receiving the signed form and the electronic signature that is incorporated in, attached to or associated with the form must satisfy the following conditions:

a) if the electronic signature is applied to the form in person by the individual, it is applied in the presence of the other party using methods such as a stylus or finger on a tablet; and
b) if the electronic signature is not applied to the form in person by the individual, it is either

i. applied to the form that is then sent to the other party using the electronic address most recently provided to the other party for that purpose; or

ii. *applied to the form that is then sent to the other party through an access controlled, secured electronic location, such as a secure website, that is accessible to the individual only because the other party has made that location known and granted access to the individual.*

***The administrative measures for electronic signature do not extend to the discounting** Forms RC71, Statement of Discounting Transaction**, and** RC72, Notice of the Actual Amount of the Refund of Tax*

a) Can CRA confirm this remains the current policy regarding the use of electronic signatures?

Response: Yes

b) Does the present policy regarding the T183 series extend to Form T2183?

Response:
Similar to the T183 and T183Corp, electronic signatures on form T2183 are acceptable under the same policy.

c) Will CRA allow further use of electronic signatures for forms other than the T183 and authorization requests? If so, which forms are being considered for the use of electronic signature?

Response:
There are many different areas throughout the agency that are responsible for forms and returns and may be evaluating electronic signature use independent of the forms listed above. In the absence of a centralized list, we suggest reviewing the guidance on the back of each form to determine whether an electronic signature is accepted.

20) Guidance on Cryptocurrency

a) Can CRA provide examples of cryptocurrency that is situated, deposited or held outside Canada for classification as specified foreign property and that would require reporting on the T1135? We understand CRA's current guidance on this issue, however examples would be appreciated. If examples can't be provided at this time, can CRA provide a timeline of when they can be provided?

Response:
Section 233.3 of the Income Tax Act (the "Act") imposes the requirement for a "specified Canadian entity" to disclose its ownership of any "specified foreign property" on Form T1135 - Foreign Income Verification Statement. This obligation generally arises in respect of a taxation year if the total cost of such properties, combined, exceeds $100,000 at any time during that taxation year. "Specified foreign property" includes "funds or intangible property, or for civil law incorporeal property, situated, deposited or held outside Canada". As stated in Technical Interpretation 2014-0561061E5, it is the CRA's view that cryptocurrency (referred to at the time as "digital currency") is funds or intangible property. As such, cryptocurrency may need to be reported on Form T1135 depending on where it is "situated, deposited or held".

The question of whether cryptocurrency belonging to a taxpayer is situated, deposited or held outside Canada is complex. That determination may depend on various factors, including whether the cryptocurrency is held through an intermediary and how it is held. In the case of shares held through an intermediary for example , the CRA webpage, Questions and answers about Form T1135*, clarifies that shares of a Canadian resident corporation held by a non-resident agent for the benefit of a Canadian reporting entity are considered to be intangible property situated, deposited or held outside Canada.*

Where cryptocurrency is held through an intermediary, characterizing the relationship between that intermediary and the taxpayer may be relevant in determining whether the cryptocurrency is situated, deposited or held outside Canada. In Canada, intermediaries that wish to offer crypto assets services to Canadian clients must comply with guidelines issued by the Canadian Securities Administrators ("CSA") – referred to by the CSA as "crypto trading platforms" or "CTPs". While the determination of where cryptocurrency is "situated, deposited or held" is a question of fact that can only be determined after a review of all the documents and the circumstances applicable to a particular situation, it is our view that, where CTPs are resident in Canada and comply with Canadian regulations, cryptocurrency held through such CTPs for the benefit of Canadian clients will typically not be considered as "situated, deposited or held" outside Canada.

b) Is a Non-Fungible Token (NFT) specified foreign property for purposes of reporting on T1135? Does it depend on the type of NFT? Does the answer change if the value of the NFT is tied to the value of a particular Cryptocurrency? Does the answer change depending on the type of NFT, such as digital artwork, domain names, music files, etc.

Response:
In order to be reportable on Form T1135, assets of a taxpayer must fall within the definition of "Specified foreign property" in subsection 233.3(1) of the Act. Property will be considered "specified foreign property" for purposes of reporting on Form T1135 if it falls within one of the categories of property listed in paragraphs (a) to (i) of the definition of "specified foreign property" in subsection 233.3(1) of the Act and is not included in any of paragraphs (j) to (q) of that definition. Determining whether a NFT falls within one of the categories of property listed in paragraphs (a) to (i) of the definition requires first determining the nature of that asset and the rights that may be associated with it.

In our view, a NFT may itself be considered "intangible property". In such instances, it would be included in paragraph (a) of the definition of "specified foreign property" in subsection 233.3(1) of the Act if it is situated, deposited or held outside of Canada.

Additionally, where a NFT represents an interest or right with respect to underlying property, it will be necessary to determine whether that interest or right falls within one of the categories of property listed in paragraphs (a) to (i).

c) Where cryptocurrency or NFTs (or other property) are held in an adventure in the nature of trade, does the CRA accept that these are held in an active business, and therefore are excluded from the definition of specified foreign property in subsection 233.1(1)?

Response:
"Specified foreign property" is defined in subsection 233.3(1) of the Act, with carve-outs in paragraphs (j) to (q) of that definition. Where an asset falls within one of the classes of property listed in paragraphs (a) to (i) of the definition, it is possible that such property will not constitute "specified foreign property" where one or several of the carve-out rules in paragraphs (j) to (q) apply.

In order for property to fit within the exclusion of paragraph (j) of the definition of "specified foreign property" in subsection 233.3(1) of the Act, it must be established that the property is used or held "exclusively in the course of carrying on an active business".

Subsection 248(1) of the Act defines "active business" for purposes of the Act as "in relation to any business carried on by a taxpayer resident in Canada, means any business carried on by the taxpayer other than a specified investment business or a personal services business". As such, where a resident of Canada is "carrying on a business" that is not a specified investment business or a personal services business, that business will be considered an active business.

CRA has previously stated in interpretation bulletin IT-459 that, although an adventure or concern in the nature of trade is included in the definition of the term "business" in section 248, it does not necessarily mean that a taxpayer who is engaged in an adventure or concern in the nature of trade is "carrying on" a business or has "carried on" a business. Where these phrases are used in the Act, a determination is made based on the degree of activity and each situation must be considered in the light of its own particular facts[i].

Where it is established that property such as cryptocurrency or NFTs are held or used in an adventure in the nature of trade, CRA will consider that such property is not held or used "in the course of carrying on an active business" for purposes of applying paragraph (j) of the definition of "specified foreign property" in subsection 233.3(1) of the Act. As such the exclusion provided in that paragraph would not be applicable with respect to the property.

d) How should a taxpayer handle GST (or HST) when selling NFTs that are considered inventory? The nature of NFT marketplaces and blockchain transactions are anonymous and region-agnostic. If a taxpayer has a business of buying and selling NFTs and has revenue over $30,000, should they include a GST (or HST) component in all sales proceeds to be safe, because they cannot know the physical location/residence of the purchaser to determine if GST (or HST) should be charged or not? How should the HST rate be determined?

Response:
A non-fungible token (NFT) is a type of crypto-asset that is generally considered to be intangible personal property (IPP) for GST/HST purposes.

The GST is imposed under subsection 165(1) of the Excise Tax Act in respect of taxable supplies that are made in Canada. The provincial part of the HST is imposed under subsection 165(2) in addition to the federal part of the HST in respect of taxable supplies that are made in a participating province.

For GST/HST purposes, a supply of IPP is generally deemed to be made in Canada if the IPP may be used in whole or in part in Canada. Assuming that there are no restrictions on where the NFT may be used, when a person sells a NFT that is IPP through a business carried on in Canada and that person is not a small supplier, GST/HST would apply to the supply of the NFT unless the supply is otherwise GST/HST exempt or zero-rated.

Certain types of crypto-assets that are virtual payment instruments, as defined in the Excise Tax Act, may be GST/HST exempt when they are supplied. However, NFTs are not considered to be virtual payment instruments and a supply of a NFT would not be GST/HST exempt.

A supply of a NFT that is IPP may be conditionally zero-rated in certain circumstances where the supply is made to a non-resident person that is not GST/HST registered at the time that the supply is made. However, in such circumstances, if a supplier cannot substantiate that the supply is made to a person that meets those conditions, GST/HST would apply to the supply. Further guidance on how to substantiate such circumstances can be found in GST/HST Info Sheet GI-034: Exports on Intangible Personal Property.

In circumstances where the supply of a NFT that is IPP is not zero-rated, the applicable rate of GST/HST must be determined. The rules for determining the applicable GST/HST rates for supplies of IPP are found in GST/HST Technical Information Bulletin B-103 Harmonized Sales Tax – Place of supply rules for determining whether a supply is made in a province.

21) Update on Voluntary Disclosure Program

Since the new Voluntary Disclosure program was launched, it seems that CRA has been behind in processing voluntary disclosure requests, and the recent strike will likely make the backlog worse. In addition, member feedback indicates that there seems to be a lack of communication from the CRA around voluntary disclosure submissions (even as basic as an acknowledgement that a submission has been received) and there is no ability to contact VDP officers. What measures is CRA taking to try and relieve the backlog and improve communications between the VDP and taxpayers/advisors?

Response:
Thank you for sharing the challenges you are currently facing when communicating with the Voluntary Disclosures Program (VDP). While the VDP remains a priority for the Canada Revenue Agency (CRA), it is important to note that the pandemic as well as the recent PSAC-UTE strike had an adverse effect on program operations. The CRA experienced challenges in advancing files for a period of time as administrative processes were previously largely paper-based.

To address these challenges, the program has been undertaking transformation in order to support the timely resolution of files. More specifically, the VDP completed its transition towards a new case management system and a new letter creation system in March 2023. The program has also simplified its working documents and removed redundancies in its administration processes, which has resulted in an increased digital footprint. Finally, while ensuring the integrity of the review of the five criteria of a valid disclosure, new streamlined procedures and working tools are being implemented for certain segments of the VDP inventory to allow for shorter decision-making timeframes on program eligibility.

The program is also undertaking appropriate measures to improve the issuance of the acknowledgement letter in a more timely fashion. With that said, the Agency's general and business enquiries phone lines remain the most effective way to obtain general information about the VDP process and to confirm that an application has been received.

The CRA remains committed to the effective delivery of the VDP and will continue to review these enhancements, and seek more, in order to ensure that the VDP remains an important element of the compliance continuum by providing an opportunity for Canadians to voluntarily come forward to correct prior errors or omissions.

Appendix A

Appendix A - Question 16(b) ENG.d

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[i] CRA, Interpretation bulletin IT-459, "Adventure or Concern in the Nature of Trade" (September 8, 1980) (archived), para. 3.