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REFDATE 140425

SUBJECT Requirement for Crown corporations to file T2

SECTION 150(1), 150(1.1), 27(2), 149(1), 220(2.1)

Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA. Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES: 1) Whether a corporation owned by Her Majesty in right of Canada or a province or both is exempt by the Act from filing T2 returns. 2) Whether any exemption would extend to wholly-owned subsidiaries of a corporation owned by the Crown.

POSITION: 1) No. However, the requirement to file can be waived. 2) Unable to comment.

April 25, 2014

Assessment and Benefit Services Branch	HEADQUARTERS
Business Returns Directorate	Income Tax Rulings
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Attention: Olga Dufresne

2014-052154

Requirement for corporations owned by the Crown to file T2 returns

We are writing in reply to your email of February 12, 2014, concerning the Canada Revenue Agency's (the "CRA") policy that exempts corporations owned by the Crown from the requirement to file income tax returns under subsection 150(1) of the Income Tax Act (the "Act").

Specifically, you asked us to provide the legislative basis for the exemption so that your Branch could ensure that the exemption is described correctly in CRA publications and on its website. Further, you asked whether the exemption described would extend to whollyowned subsidiaries of a corporation owned by the Crown.

Background

You referred us to two CRA resources that describe the exemption for a corporation owned by the Crown from filing a T2 return. The webpage, Corporation income tax return, found at <http://www.cra-arc.gc.ca/tx/bsnss/tpcs/crprtns/rtrn/menu-eng.html>, states, "All resident corporations (except Crown corporations, Hutterite colonies and registered charities) have to file a corporation income tax (T2) return every tax year even if there is no tax payable."

Similarly, the T2 Guide states,

"All corporations - including non-profit organizations, tax-exempt corporations, and inactive corporations - have to file a T2 return for every tax year, even if there is no tax payable. The only exceptions to this rule are provincial Crown corporations, Hutterite colonies, and corporations that were registered charities throughout the year."

We note that of the two references provided, one refers to all Crown corporations while the other refers only to provincial Crown corporations.

Our Comments

In general, subsection 150(1) requires taxpayers to file a return of income for each taxation year on or before specified dates. Paragraph 150(1.1)(a) provides an exception to the filing requirement in subsection 150(1) if the taxpayer is a corporation that was a registered charity throughout the year.

Where all (or in some instances not less than 90%) of the shares or capital of a corporation are owned by Her Majesty in right of Canada or a province or a combination of these persons, and no other restriction within section 149 of the Act applies, no tax is payable under Part I of the Act on the taxable income of the corporation by virtue of paragraphs 149(1)(d) or (d.1) of the Act. Paragraphs 149(1)(d.2) and (d.3) of the Act extend the exemption to certain subsidiaries of these corporations. Paragraph 149(1)(d.4) extends the exemption from Part I tax to corporations, all of the shares or capital of which are owned by corporations that are exempt under paragraphs 149(1)(d) to (d.3).

We note that subsection 27(2) of the Act provides that the tax exemption provided in paragraphs 149(1)(d) to (d.4) does not apply to a prescribed federal Crown corporation pursuant to section 7100 of the Income Tax Regulations or any corporation controlled by such a corporation.

We trust our comments will be of assistance.

Yours truly,

Terry Young, CPA, CA

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International Division

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