



NO.: IC70-6R9

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SUBJECT: Advance Income Tax Rulings and Technical Interpretations

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## Application

1. The Income Tax Rulings Directorate (Directorate) is the Canada Revenue Agency's (CRA's) authority for the interpretation of the Income Tax Act (Act), the Income Tax Regulations and all related statutes. The Directorate provides income tax technical interpretations (Technical Interpretations) and advance income tax rulings (Rulings). In addition, as part of its Rulings service, the Directorate provides consultations in advance of a Ruling request (Pre-ruling Consultations). This Information Circular describes these services.

2. This Information Circular cancels and replaces Information Circular 70-6R8 dated November 1, 2018. Its effective date is April 1, 2019.

## What is the difference between a Technical Interpretation and a Ruling?

3. A Technical Interpretation is generic in nature. It is a written statement that provides the CRA's interpretation of specific provisions of Canadian income tax law. No fee is charged for a Technical Interpretation.

4. A Ruling is a written statement confirming how the CRA's interpretation of specific provisions of Canadian income tax law applies to a definite transaction or transactions that a taxpayer is contemplating. Rulings are generally requested by tax professionals on behalf of their clients. A fee is charged for a Ruling (see Fee for a Ruling or a Pre-ruling Consultation).

5. A Ruling is only issued in response to a written request that includes all required information (see **Appendix A – Advance income tax ruling request checklist** and **Appendix A.1 – Advance income tax ruling request template**).

## Technical Interpretations

### Nature of a Technical Interpretation

6. A Technical Interpretation explains the CRA's interpretation of specific provisions of Canadian income tax law. It might not extend to all situations and is not determinative of the tax treatment of a specific taxpayer's situation.

### Circumstances where a Technical Interpretation will not be issued

7. Situations where the Directorate might not issue a Technical Interpretation include:

- a. transactions in respect of which a provision can only result in one outcome and there is no reasonable alternative interpretation. That includes circumstances where the request is to confirm that a provision does not apply, where the information provided in support of the request does not support any reasonable ambiguity that would suggest that the provision might apply;
- b. where an inquiry relates to an interpretation already contained in a CRA publication such as a guide or folio;
- c. where the Technical Interpretation request relates to a matter that is under audit, under objection or the subject of a current or completed court process;
- d. where it would be more suitable to request a Ruling, for example where the request appears to contemplate a proposed transaction; or
- e. situations described in ¶19(h) to (l) below.

### Information to be included with a Technical Interpretation request

8. A Technical Interpretation request must include:
- a. the name, address, and telephone number of the requestor;
  - b. a description of the tax issue; and
  - c. where the requestor is a tax professional or a large corporation, a detailed analysis of the issue.

If the requestor wishes to communicate with the Directorate by way of email or facsimile transmissions, they must complete and send **Appendix F – Standard authorization for email and facsimile transmission for communication with the Income Tax Rulings Directorate** (see ¶42 for more details).

## Technical Interpretation process

9. A request for a Technical Interpretation will be acknowledged within two weeks of receipt. This acknowledgement will provide a contact name and a file reference number.

10. Where a request for a Technical Interpretation is incomplete or relates to a circumstance in respect of which the Directorate will not provide an interpretation, the requestor will be notified.

11. The Directorate's policy is to give priority to requests for Rulings and to requests made by other areas of the CRA. Generally, requests for Technical Interpretations are dealt with in the order in which they are received. The Directorate's goal is to issue Technical Interpretations within 90 business days of receipt of all required information.

## Rulings

### Nature of a Ruling

12. There is no legal requirement to issue Rulings. The purpose of the Rulings service is to promote voluntary compliance, uniformity and self-assessment by providing certainty with respect to the application of Canadian income tax law to proposed transactions. There is no related appeal process.

13. Since a Ruling gives assurance on the income tax treatment of proposed transactions, Rulings are generally not issued on completed transactions. However, the Directorate may consider issuing a Ruling on completed or partially completed transactions if the Ruling request is received before the transactions are completed.

14. Subject to any qualification, caveats, disclaimers or comments stated in a Ruling, a Ruling is regarded as binding upon the CRA with respect to the recipient taxpayer and the described transactions to the extent that there is no material omission or misrepresentation in the statement of relevant facts, proposed transactions or other information described in the Ruling and/or the related request and provided that the proposed transactions are implemented within the time limit specified in the Ruling. The CRA is not bound by facts and information disclosed in supplementary documents provided by the taxpayer but not included in the issued Ruling.

15. A taxpayer may be given an extension of the time limit specified in the Ruling by sending a request to the Directorate before the expiration date and providing the reasons for the delay.

16. If legislation is amended after a Ruling is issued and the Ruling ceases to be supported by the legislation due to the amendment(s), the Ruling will cease to bind the CRA on the effective date of the amendment.

17. If a court decision is rendered after a Ruling is issued and the court decision stands for a proposition that cannot be reconciled with an interpretation of the legislation on which the Ruling is based, the Ruling will cease to bind the CRA in respect of transactions occurring after the date of the court decision.

18. Where it is determined that a Ruling was issued in error, or where an interpretation is changed by the CRA, the Ruling may be revoked. The Directorate will give the taxpayer written notice of its intention to revoke the Ruling. The CRA will not be bound by the Ruling to the extent that the proposed transactions are implemented after the date of such written notice. The taxpayer will be granted the opportunity to make representations before a final decision is made. A Ruling is revoked by written notice to the taxpayer or the taxpayer's representative to whom the Ruling was issued.

### Circumstances where a Ruling will not be issued

19. There are situations in respect of which the Directorate will not or cannot issue a Ruling. Although not an exhaustive list, the Directorate will generally not issue a Ruling in situations involving:

- a. proposed transactions or issues that are the same as or substantially similar to transactions or issues that are:
  - i. in a previously filed tax return of the taxpayer or a related person and:
    - A. being considered by the CRA in connection with such return;
    - B. under objection by the taxpayer or a related person; or
    - C. the subject of a current or completed court process involving the taxpayer or a related person; or
  - ii. the subject of a Ruling request previously considered by the Directorate;
- b. proposed transactions that are not being seriously contemplated or are to be completed at some indefinite future time;
- c. alternative courses of action;
- d. the determination of the fair market value of a property;
- e. the confirmation of tax-related calculations;
- f. the interpretation of a provision of the tax legislation that has either not been enacted, or would require a regulation and the particular regulation is not yet enacted. However, a non-binding interpretation of a provision that has not been enacted may be provided;
- g. proposed transactions in respect of which a provision can only result in one outcome and there is no reasonable alternative interpretation. That includes circumstances where the request is to confirm that a provision does not apply, where the information

provided in support of a Ruling request on a provision does not support any reasonable ambiguity that would suggest that the provision might apply. An example of the latter would be a request to rule on subsections 15(1) and 246(1) where no potential benefit was identified in the Ruling request. Another example would be a request to rule that subsection 107(2) will apply to deem that there is no gain or loss on a proposed distribution of capital from a personal trust to a beneficiary, where the requirements of that provision are met and no ambiguity was identified in the Ruling request. However, a Ruling might still be provided on such provisions to confirm that their application will not be denied under subsection 245(2);

- h. primarily a factual or legal determination. This may include issues involving residence, the income or capital nature of a transaction, carrying on a business or the existence of a partnership. For more information see ¶19.1 below;
- i. issues and/or types of transactions in respect of which the Directorate has publicly announced that it will not issue a Ruling;
- j. transactions that pertain to provisions of tax legislation or positions that are under review;
- k. issues that would require interpretation of a law not administered by the CRA, including foreign law;
  - l. an opinion on accounting or commercial principles, practices, or guidelines;
- m. a request in respect of which the requestor (generally the taxpayer's representative) has not undertaken to pay the fees (see **Appendix C – Taxpayer undertaking to remit fee** or **Appendix D – Undertaking by representative's firm to remit fee**); or
- n. a request in respect of which the taxpayer has not consented to release the Ruling in a severed form to the public (see **Appendix E – Standard consent to release an advance income tax ruling to commercial publishers**).

**19.1.** The Directorate will generally not issue a Ruling confirming the application of a provision that is conditional on the existence of facts (including an intention), especially where the facts or intentions have to be inferred from circumstances.

However, where the Directorate has considered that it was provided with sufficient supporting facts and evidence to confirm the existence of the relevant facts and intentions, Rulings have sometimes been issued on provisions involving primarily a determination of facts. Examples include Rulings on:

- a. subsection 55(2);
- b. provisions that require the determination of the existence or absence of a series of transactions or events;

- c. whether a property is a replacement property within the meaning of subsections 44(5) and 13(4.1); or
- d. section 245 (more particularly, subsection 245(3) which provides that the general anti-avoidance rule will not apply if a transaction may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain a tax benefit).

Where the taxpayer is of the view that it is possible to demonstrate the existence of the relevant facts or intention in support of a Ruling request and the Directorate considers that the Ruling request includes a complete, accurate and detailed description of the supporting facts and evidence, the Directorate will consider ruling on the request as described in ¶21 to 29 below (Ruling process). Should the Directorate not be able to issue a Ruling based on the information presented, we refer the reader to ¶26 below.

### Information to be included with a Ruling request

20. All of the information listed in **Appendix A – Advance income tax ruling request checklist** and described in **Appendix A.1 – Advance income tax ruling request template** must be provided with a request for a Ruling.

### Ruling process

21. Rulings are usually responded to on a first-come-first-served basis. A Ruling should be requested far enough in advance to ensure that the Directorate has sufficient time to review and process the request before the completion of the proposed transaction(s).

### Acknowledgement

22. A request for a Ruling will be acknowledged within two weeks of receipt. This acknowledgement will provide a contact name and a file reference number. The acknowledgement may also require that any missing essential information (see **Appendix A – Advance income tax ruling request checklist** and **Appendix A.1 – Advance income tax ruling request template**) that was not included with the Ruling request be provided within 30 calendar days for the file to remain open.

23. The Directorate's target is to issue Rulings within a specific period of time starting on the receipt of all information as set out in **Appendix A – Advance income tax ruling request checklist** and **Appendix A.1 – Advance income tax ruling request template**. The service standard is 90 business days 80% of the time.

### Request for additional information

24. Having begun work on a Ruling request, if it is determined that additional information is required, the additional information will be requested and, when necessary, the file will be put on hold until the additional information is received.

25. Where the request for additional information has not been responded to within 30 calendar days, the file will be closed and the taxpayer will be billed for the hours worked. If the required information is received following the 30 day period, a new Ruling file will be opened and the standard rate will be charged for each hour of work (see Fee for a Ruling or a Pre-ruling Consultation).

### Withdrawal of a Ruling request

26. The Directorate's view of whether the facts and intentions are sufficiently supported by the information provided in the Rulings request or of how the legislation applies to the proposed transactions described in the Ruling request might differ from that of the taxpayer or their representative. Where this is the case, the taxpayer will have the opportunity to submit representations before a final decision is made. At any point, a taxpayer may choose to withdraw the Ruling request. Even when withdrawn, a fee will be charged for time spent considering the request (see Fee for a Ruling or a Pre-ruling Consultation).

### Communication within the CRA

27. A copy of all Rulings and withdrawals will be provided to the applicable compliance area(s) of the CRA.

28. Rulings are binding on the CRA only to the extent that there is no material omission or misrepresentation as indicated in ¶14 above. All the facts, proposed transactions, purpose(s) of the transactions and other information described in a Ruling may be the subject of discussion within the CRA at any time and may be later subject to an audit. One of the objectives of an audit may be to confirm that all of the relevant facts were accurately presented in the Ruling and that the proposed transactions were carried out as described in the Ruling. Information not described in the Ruling or modifications to the way in which the proposed transactions were carried out will be brought to the attention of the Directorate. The Directorate will determine any resulting impact and whether the CRA remains bound by the Ruling given.

### Supplemental Rulings

29. If there is a change in the facts or proposed transactions described in a Ruling, the taxpayer may make a written request to the Directorate to obtain a supplemental Ruling to confirm the tax implications of the new facts and proposed transactions. A supplemental Ruling request is subject to the same information requirements as a Ruling request (see **Appendix A – Advance income tax ruling request checklist** and **Appendix A.1 – Advance income tax ruling request template**). However, new authorizations, consents, and undertakings (see Appendices B to F) will not be necessary if it is confirmed that those from the initial Ruling request also apply to the supplemental Ruling request.

## Pre-ruling Consultations

### Nature of a Pre-ruling Consultation

30. As part of the Rulings service, the Directorate offers the option to request a Pre-ruling Consultation. A Pre-ruling Consultation allows taxpayers and/or their authorized representatives to discuss with the Directorate any unique, new technical issue that is critical to the structuring of a definite transaction or transactions that a taxpayer is contemplating in advance of submitting a Ruling request. A fee is charged for a Pre-ruling Consultation (see Fee for a Ruling or a Pre-ruling Consultation).

31. The purpose of the Pre-ruling Consultation is to reduce the costs that a taxpayer might incur to prepare the more detailed submission required in connection with a request for a Ruling that the Directorate is unable to provide.

32. At the conclusion of a Pre-ruling Consultation, the Directorate will inform the taxpayer whether it will consider the issue further in the context of a Ruling request. The fact that the Directorate will further consider the issue does not indicate that a positive Ruling will be issued.

### Information to be included with a Pre-ruling Consultation request

33. A Pre-ruling Consultation request must be made in writing using **Appendix G – Pre-ruling Consultation request and undertaking**.

### Pre-ruling Consultation process

34. Within 5 business days of receipt of a request for a Pre-ruling Consultation, the Directorate will contact the taxpayer to indicate whether the Pre-ruling Consultation request is accepted.

35. The Directorate's goal is to schedule a teleconference within 3 weeks of receipt of a complete Pre-ruling Consultation request.

36. The Directorate may request additional information prior to the teleconference.

37. Agreement to participate in a Pre-ruling Consultation does not constitute the commencement of the Ruling process and it will not affect the priority given to a Ruling request that is subsequently submitted.

### Pre-ruling Consultation teleconference

38. The Pre-ruling Consultation will generally be provided via teleconference, although a meeting may be arranged by exception. Any comments provided by the Directorate during the teleconference or meeting will not be binding on the CRA.

39. A reasonable number of representatives on behalf of the taxpayer may participate in the teleconference.

40. The Directorate will not provide any written comments in connection with a Pre-ruling Consultation.

## Requesting the Directorate's services

41. Requests for Rulings, Pre-ruling Consultations and Technical Interpretations may be mailed, faxed, or emailed to the Directorate at:

### Income Tax Rulings Directorate

Canada Revenue Agency

9th floor, Tower A

Place de Ville, 320 Queen Street

Ottawa ON K1A 0L5

Email: [itruulingsdirectorate@cra-arc.gc.ca](mailto:itruulingsdirectorate@cra-arc.gc.ca)

Fax: (613) 957-2088

42. The CRA does not provide assurance with respect to the protection, confidentiality, or security of email or facsimile transmissions. However, the Directorate will receive requests for Rulings, Pre-ruling Consultations and Technical Interpretations, along with supporting documentation, by email or facsimile provided that the taxpayer accepts the risk of the loss of confidentiality due to the unsecure nature of email and facsimile transmissions. If taxpayers or their representatives want to communicate with the Directorate by email or fax, they must complete and send **Appendix F – Standard authorization for email and facsimile transmission for communication with the Income Tax Rulings Directorate**.

## Fees and invoices

### Fee for a Ruling or a Pre-ruling Consultation

43. The fee for a Ruling is set by Order in Council. The fee for each of the first 10 hours, or part of an hour is \$100 (the initial rate) plus applicable tax. The fee for each subsequent hour, or part of an hour, spent on the Ruling request is \$155 (the standard rate) plus applicable tax. Note that effective April 1, 2019, in accordance with subsection 17(1) of the federal Service Fees Act, the initial rate and the standard rate will be adjusted annually to reflect the percentage change over twelve months in the April All-items Consumer Price Index for Canada. This means that on April 1, 2019 the initial rate will be \$102 per hour plus applicable tax and the standard rate will be \$158 per hour plus applicable tax. No deposit is required for a Ruling request. All time spent processing a Ruling request will be included when calculating the Ruling fee, even if the Ruling request is withdrawn. All time spent on a supplemental Ruling request will be billed at the standard rate.

44. The fee for a Pre-ruling Consultation is the same as the fee for a Ruling. All time spent processing a Pre-ruling Consultation will be included when calculating the fee regardless of the outcome of the Pre-ruling Consultation. If a Ruling request is subsequently submitted by the taxpayer, the hourly fee charged for the Ruling request will take into

consideration the hours spent on the Pre-ruling Consultation. For example, if 10 hours were charged for the Pre-ruling Consultation fee at the initial rate, all hours spent on the Ruling request will be charged at the standard rate.

45. A deposit of \$2,500 must be submitted with a Pre-ruling Consultation request. The deposit is refundable to the extent that it exceeds the fee for the Pre-ruling Consultation.

46. The HST/GST/QST payable on the supply of a Ruling or a Pre-ruling Consultation will be determined on the basis of the address of the recipient of the service and will be calculated at the rate applicable to that province. For the purpose of determining the applicable rate, the person submitting the request for the Ruling or the Pre-ruling Consultation will be presumed to be the recipient and that person's address will determine the place of supply of the service. Where the taxpayer has authorized a third party representative, the representative will be considered to be the person submitting the request.

47. In addressing a request for a Ruling or a Pre-ruling Consultation, the Directorate is not limited to considering the provisions of the legislation in respect of which the Ruling is or might be requested. The proposed transactions may raise issues involving provisions of the legislation not specifically referenced. The time spent analyzing these issues will also be included when calculating the fee.

### Interim invoices

48. The Directorate may issue interim invoices.

### Interest and overdue accounts

49. The payment term on interim and final invoices is 30 days. If payment is not received within 30 days, interest is calculated at the prescribed interest rate that is charged by the CRA on overdue taxes. Where an invoice remains owing for more than 90 days, the Directorate may begin proceedings against the taxpayer or their representative's firm for the recovery of the amounts owed.

50. If the representative's firm has an overdue account in respect of a Ruling or a Pre-ruling Consultation, the Directorate will cease work on other Ruling, Pre-ruling Consultation or Technical Interpretation requests made by that firm until payment of that account is received.

### Publication of Rulings and Technical Interpretations

51. The Directorate distributes its Rulings and Technical Interpretations through various publishers of tax information. The documents are severed to protect the identity of the taxpayer.

52. Rulings and Technical Interpretations are released to the publishers of tax information for information purposes only. In relying upon them, taxpayers must use caution because:

- a. Rulings and Technical Interpretations state the Directorate's views at the time they are written. The published documents are not updated to reflect changes in the law, jurisprudence or the Directorate's interpretive position.
- b. Due to taxpayer confidentiality restrictions, material information may have been severed.
- c. Seemingly minor differences in facts and circumstances might result in a materially different conclusion.

### Sharing of information on Rulings and Technical Interpretations Communication within the federal government or with a provincial or territorial government

53. Any information provided to the Directorate in respect of Technical Interpretations, Rulings and Pre-ruling Consultations may be shared and/or validated with other Branches of the CRA and other federal, provincial or territorial government institutions, within the limits of the confidentiality-of-taxpayer-information provisions of section 241 of the Act.

### Exchanges of information on Rulings under BEPS Action 5

54. As part of the Organization for Economic Cooperation and Development's (OECD) Base Erosion and Profit Shifting (BEPS) project, as described in Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 – 2015 Final Report, Canada has committed to the spontaneous exchange of information on tax rulings with certain other countries. In the context of the BEPS project, countries agreed to exchange information on the following types of rulings that are relevant to the Directorate:

- a. cross-border rulings related to preferential regimes (for Canada this would include international shipping and certain foreign life insurance operations of a Canadian company);
- b. cross-border rulings related to transfer pricing legislation;
- c. cross-border rulings providing a downward adjustment not directly reflected in the taxpayers' accounts;
- d. permanent establishment rulings; and
- e. related party conduit rulings.

**55.** If a Ruling falls into one of the above categories, a summary of its contents may be exchanged with the countries of residence of the immediate parent company, the ultimate parent company and certain other parties. These countries may then ask to receive relevant portions of the Ruling in more detail. These exchanges of information will be performed in the usual manner, by the CRA's Competent Authority Services Division, in accordance with the terms of Canada's relevant tax treaties and other international agreements. As such, taxpayers making a Ruling request must include sufficient information to allow the CRA to identify the relevant parties for such exchanges. For more information, see the OECD website under Base Erosion and Profit Shifting.

## **Privacy notice**

**56.** Personal information described in the Appendices attached to this Information Circular is collected for the purpose of processing requests for Advance Income Tax Rulings, Pre-Ruling Consultations and Technical Interpretations under the general authority to administer the Act provided by the Canada Revenue Agency Act (S.C. 1999, c. 17) and may be used by the CRA for any other purpose related to the administration and enforcement of the Act such as compliance and appeals. It may be shared and/or validated with federal, provincial, and territorial government institutions and foreign governments to the extent authorized by law, as mentioned in ¶¶53 to 55 above. Failure to provide the required information may lead to a delay in or refusal to process the request. Incomplete or inaccurate information could impact the Ruling or Technical Interpretation, as mentioned in ¶¶14 and 28 above.

**57.** Personal information is described in personal information bank CRA PPU 090. Under the Privacy Act (R.S.C., 1985, c. P-21), individuals have a right of protection, access to and correction or notation of their personal information and the right to file a complaint with the Privacy Commissioner of Canada regarding our handling of their information.

## Appendix A – Advance income tax ruling request checklist

All of the information listed below **must** be provided with a request for an advance income tax ruling and supplemental ruling (Ruling).

Further guidance on the preparation and filing of a Ruling request, is available in Appendix A.1 – Advance income tax ruling request template and Appendix A.2 – Advance income tax ruling request reference guide.

### Part 1 – Authorizations, undertakings and consents

Please ensure that you complete and include a copy of the following appendices with your Ruling request:

1. **Representative authorization** (Appendix B). This authorization is required where the taxpayer would like the Directorate to discuss confidential taxpayer information concerning a Ruling request with a third party representative.
2. **Taxpayer undertaking to remit fee** (Appendix C). This undertaking is required where the taxpayer is making a Ruling request without a third party representative.  
**or**  
**Undertaking by representative's firm to remit fee** (Appendix D). This undertaking is required where the taxpayer has authorized a third party representative.
3. **Standard consent to release an advance income tax ruling to commercial publishers** (Appendix E).
4. **Standard authorization for email and facsimile transmission for communication with the Income Tax Rulings Directorate** (Appendix F). This authorization is required where the taxpayer or their representative wishes to communicate with the Directorate by email or fax.
5. **BEPS Action 5 information to identify relevant parties** [If applicable]. This information is required where a Ruling request falls into a specified category under BEPS Action 5, as set out in ¶54 and 55 of IC70-6R9. Further information in respect of the BEPS requirements is available on the OECD website in the following report: Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report.
6. **Electronic copy of Ruling request.** To assist the Directorate in preparing the Ruling, provide a Microsoft Word format copy of the Ruling request and supplements, prepared in accordance with Appendix A.1 – Advance income tax ruling request template and Appendix A.2 – Advance income tax ruling request reference guide.

### Part 2 – Ruling request

Please ensure that you complete Appendix A.1 – Advance income tax ruling request template as follows:

1. **Taxpayer(s) information** – the taxpayer's name and identification number and the tax services office and tax center where the taxpayer files their income tax return
2. **Confirmation** – a representation that none of the proposed transactions or issues involved in the Ruling request are the same as or substantially similar to certain transactions or issues as identified in ¶19(a) of IC70-6R9
3. **Definitions** – includes abbreviations, terms and expressions, and the generic names of the relevant parties (individuals, corporations, trusts and/or partnerships) to the Proposed Transaction(s), used throughout the Ruling
4. **Facts** – a complete, accurate and detailed description of **all** the facts relevant to the Proposed Transactions and Rulings requested
5. **Completed Transactions** [If applicable] – a description of all significant transactions that were completed or partially completed prior to the time of submission of the Ruling request, and that may be part of the series of transactions
6. **Proposed Transactions** – a complete, accurate and detailed description of each proposed transaction
7. **Additional Information** [If applicable] – a description of any other information that is relevant during, or subsequent to, the implementation of the Proposed Transactions, and all significant transactions that might be undertaken after the completion of the Proposed Transactions, which may be considered to be part of the series of transactions
8. **Purpose of Proposed Transactions** – a statement of the tax and non-tax purpose of **each** proposed transaction
9. **Rulings Requested** – a statement(s) of the specific Ruling(s) being requested

### **Part 3 – Supplements to the Ruling request**

1. **Taxpayer information** – for **all** parties in respect of which a Ruling is requested provide: the taxpayer’s name and identification number and the tax services office and tax center where the taxpayer files their income tax return
2. **Submissions**
  - i. **Ruling analysis** – an interpretation of the relevant provisions of the Act and related legislation for **each** requested Ruling, including a detailed analysis of the relevant case law, CRA publications including Rulings and/or Technical Interpretations, Department of Finance Explanatory Notes and any other relevant interpretive source
  - ii. **General anti-avoidance rule analysis** [If applicable] – If the general anti-avoidance rule (GAAR) (section 245 of the Act) might apply to the Proposed Transactions, a complete analysis **must** be provided as described in Supplement 2 of Appendix A.1 – Advance income tax ruling request template and Appendix A.2 – Advance income tax ruling request reference guide.

**See the Privacy notice in ¶56 and 57 of IC70-6R9**

## Appendix A.1 – Advance income tax ruling request template

The following template should be used to prepare a request for an advance income tax ruling and supplemental ruling (Ruling), together with Appendix A.2 – Advance income tax ruling request reference guide which provides additional information on the preparation and submission of a Ruling request.

A Ruling is only issued by the Income Tax Rulings Directorate (Directorate) in response to a written request that includes all of the required information outlined in Appendix A – Advance income tax ruling request checklist and described in this Appendix. The checklist in Appendix A can help you decide what information must be included in your application to the Directorate.

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### Requesting the Directorate's Services

Ruling requests may be mailed, faxed, or emailed to the Income Tax Rulings Directorate at:

Mail:

**Income Tax Rulings Directorate**

Canada Revenue Agency  
9th Floor, Tower A – Place de Ville  
320 Queen Street  
Ottawa ON K1A 0L5

Email: [itrulingsdirectorate@cra-arc.gc.ca](mailto:itrulingsdirectorate@cra-arc.gc.ca)

Fax: (613) 957-2088

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### Ruling request template

**Note**

Instructions for completing the Ruling request template appear in square brackets []. These instructions should be removed and replaced in your final Ruling request letter with the appropriate information as described in the particular instruction. For additional information on the preparation and submission of a Ruling request, consult Appendix A.2 – Advance income tax ruling request reference guide.

**CRA - Income Tax Rulings Directorate**

320 Queen Street  
9th Floor, Tower A – Place de Ville  
Ottawa ON K1A 0L5

**Attention: Director, [Insert Division Title] Division**

Month XX, 2XXX

Dear Sir/Madam;

**Re: Advance Income Tax Ruling Request – [Subject of the Ruling]**  
**[Name(s) of Taxpayer(s) and Identification Number(s) (BN, SIN or TAN)]**  
**Tax Services Office:**  
**Tax Centre:**

We are requesting an advance income tax ruling (Ruling) on behalf of the above-named taxpayer(s). [Include an introductory statement that provides an overview or summary of the Proposed Transactions.]

### Confirmation

We confirm that, to the best of our knowledge and that of the taxpayers involved, none of the proposed transactions or issues involved in this Ruling request are the same as or substantially similar to transactions or issues that are:

- i. in a previously filed tax return of the taxpayer or a related person and:
  - A. being considered by the CRA in connection with such return;
  - B. under objection by the taxpayer or a related person; or

- C. the subject of a current or completed court process involving the taxpayer or a related person; or
- ii. the subject of a Ruling request previously considered by the Income Tax Rulings Directorate.

## Definitions

Unless otherwise stated:

- i. all references to a statute are to the relevant provision of the Income Tax Act, R.S.C. 1985 (5th Supp.), c.1, as amended, (the Act), or, where appropriate, the Income Tax Regulations, C.R.C., c.945, as amended, (the Regulations);
- ii. all terms and conditions used in this Ruling request that are defined in the Act (or in the Regulations) have the meaning given in such definition;
- iii. all references to monetary amounts are in Canadian dollars; and
- iv. the singular should be read as plural and vice versa where the circumstances so require.

The following abbreviations, terms and expressions have the meanings specified, and the relevant parties [individuals, corporations, trusts and/or partnerships] to the Proposed Transactions (as defined below) will be referred to as follows [list in alphabetical order]:

### Examples

The following examples of abbreviations, terms and expressions, and generic names, illustrate the format and style to be used in this section.

Generic names should be used to describe each of the relevant parties to the Proposed Transactions. For additional information refer to Appendix A.2 – Advance income tax ruling request reference guide.

“Aco” means ABC Corporation incorporated under the laws of the province of Nova Scotia;

“arm’s length” has the meaning assigned by subsection 251(1);

“cost amount” has the meaning assigned by subsection 248(1);

“CRA” refers to the Canada Revenue Agency;

“Fair market value” or “FMV” means the highest price available in an open and unrestricted market between informed and prudent parties acting at arm’s length and under no compulsion to act, expressed in terms of cash;

“Mother” refers to Mrs. X;

“Paragraph” refers to a numbered paragraph in this letter;

“Proposed Transactions” means the transactions described in Paragraphs # to #;

“Sibling 1” refers to Mr. X, son of Mother and sibling of Sibling 2;

“Sibling 2” refers to Ms. X, daughter of Mother and sibling of Sibling 1;

“Siblings” means collectively, Sibling 1 and Sibling 2.

## Facts

### Note

Continuous paragraph numbering should be used for all sections starting with **Facts** through to **Purpose of Proposed Transactions**.

A complete description of all the relevant facts is as follows:

- 1. [Relevant Parties to the Proposed Transactions – Provide a complete description of the relevant details for each corporation, individual, trust, and/or partnership as applicable.]
- 2. [Organizational Structure of Entities – To the extent that it would be relevant to the Ruling request, describe the complete organizational structure or chain (Canadian and/or foreign) where there are two or more entities (corporations, trusts and/or partnerships) involved in the Proposed Transactions.]

3. [Share Capital, Unit Structure or Interest of Entities – If applicable, describe the share capital, unit structure or member interest for each entity (corporation, trust and/or partnership) involved in the Proposed Transactions.]
4. [Other fact(s) or information– Describe any other fact(s) or information in existence prior to carrying out the Proposed Transactions that may be significant to the Ruling request. Recall that an issued Ruling is not considered binding on the CRA if there is a material omission or misrepresentation in the statement of relevant facts, proposed transactions or other information described in the Ruling and/or the related request (see ¶14 of IC70-6R9).]

### **Completed Transactions [If applicable]**

5. [Describe all significant transactions that were completed or partially completed prior to the time of submission of the Ruling request, and that may be part of the series of transactions. The Directorate may consider issuing a Ruling on completed or partially completed transactions if the Ruling request is received before the transactions are completed (see ¶13 of IC70-6R9).]

### **Proposed Transactions**

6. [Provide a complete, accurate and detailed description of each proposed transaction in chronological order.]
7. [Proposed transactions must be seriously contemplated, with a defined date of implementation.]
8. [Proposed transactions do not include alternative courses of action.]
9. [Since an issued Ruling gives assurance on the income tax treatment of proposed transactions, the taxpayer(s) and/or the authorized representative must ensure that there is no material omission or misrepresentation in, among other things, the Proposed Transactions (see ¶14 of IC70-6R9).]

### **Additional information [If applicable]**

10. [Provide a description of any other information in respect of the Ruling request that is relevant during, or subsequent to, the implementation of the Proposed Transactions. For example, this additional information can include representations of the taxpayer or authorized representative on issues relating to, among other things: residency; the status of, or the relationship between, certain parties for tax and/or legal purposes; or information pertaining to shares, debt or the nature of certain agreements that may be considered relevant to the Proposed Transactions.]
11. [Describe all significant transactions that might be undertaken after the completion of the Proposed Transactions, which may be considered to be part of the series of transactions.]

### **Purpose of Proposed Transactions**

12. [State the tax and/or non-tax purpose of **each** proposed transaction.]

### **Rulings Requested**

We confirm that:

- i. the preceding statements are accurate and constitute complete disclosure of all the relevant facts, proposed transactions, additional information and purposes of the Proposed Transactions;
- ii. the Proposed Transactions will be completed in the manner described above; and
- iii. there are no other transactions which may be relevant.

We request that the following Ruling(s) be given:

#### **Note**

Continuous paragraph lettering (alphabetical) should be used for the **Rulings Requested** section.

- A. [State the specific Ruling(s) being requested with reference to the application of the relevant provisions of the Act or the Regulations in the context of the Proposed Transactions.]
- B. [Rulings must be based on enacted legislation.]
- C. [Rulings give assurance on the income tax treatment of proposed transactions where there is doubt regarding the interpretation of the legislation in the context of a particular Ruling requested.]
- D. [Include an interpretive analysis (submission) to support each Ruling requested. More information on the preparation of submissions can be found in Supplement 2.]

**Examples**

The following examples are meant to illustrate format and style for this section. The particular references to the Act and the content of these sample Rulings may or may not be applicable to your particular Ruling request.

- A. The provisions of subsection 15(1) will not apply as a result of the [describe transaction(s)] described in Paragraph(s) [number(s)].
- B. The transfer of [identify property] by [identify transferor] to [identify transferee] as described in Paragraph [number] above, will be a “qualifying disposition” within the meaning of subsection 107.4(1), such that the rules in subsection 107.4(3) will apply to [the transferor] and [the transferee] on the transfer.
- C. The provisions of subsection 245(2) will not apply as a result of the Proposed Transactions, in and by themselves, to re-determine the tax consequences confirmed in any of the rulings given.

It is acknowledged that any Ruling(s) given by the CRA will be based on the Act (or the Regulations) as it reads as of the date that the Ruling is issued. Furthermore, we understand that such Ruling(s) will not take into account any proposed amendments to the Act or the Regulations which, if enacted subsequent to the date of the issuance of a Ruling letter, could have an effect on any Ruling(s) provided in such a letter.

It is acknowledged that any Ruling(s) given by the CRA will be subject to the general limitations and qualifications set out in Information Circular 70-6R9 dated April 23, 2019. Such Ruling(s) will be binding on the CRA provided, among other things, that the Proposed Transactions are completed within the time limit to be specified in the Ruling letter.

Sincerely,

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Signature of taxpayer(s) and/or  
the authorized representative

## Supplement 1 – Taxpayer information

[For all parties (individuals, corporations, trusts and/or partners to a partnership) in respect of which a Ruling is requested, provide the following information:]

Taxpayer's Name: \_\_\_\_\_

Taxpayer's ID: \_\_\_\_\_

Taxpayer's Address: \_\_\_\_\_

Tax Services Office: \_\_\_\_\_

Tax Centre: \_\_\_\_\_

## Supplement 2 - Submissions

### Note

Continuous paragraph lettering (alphabetical) should be used for the **Submissions** section and these paragraph references should correspond to a Ruling identified in the **Rulings Requested** section.

### A. Ruling “A” analysis

[The taxpayer or authorized representative must provide an interpretation of the relevant provisions of the Act and related legislation for each requested Ruling. Describe the concern or doubt regarding this interpretation and how it will be resolved by the requested Ruling. Include references to all relevant:

- case law;
- CRA publications, including Rulings and/or Technical Interpretations;
- Explanatory Notes issued by the Department of Finance; or
- any other relevant interpretive source.

Describe whether or not the reference cited supports or challenges the specific Ruling requested.]

### B. Ruling “B” analysis

[See Ruling “A” analysis above for a general description of the content of a submission.]

### C. General anti-avoidance rule analysis – Section 245 [If applicable]

[Section 245 is a general anti-avoidance rule (GAAR) which is intended to prevent abusive tax avoidance transactions or arrangements. The GAAR applies after the application of the other provisions of the Act, including specific anti-avoidance measures. Accordingly, the taxpayer or the authorized representative must consider if the GAAR applies to the Proposed Transactions, regardless of whether or not a GAAR ruling is requested.

If the GAAR might apply to the Proposed Transactions, an analysis must be provided which addresses:

- i. whether a transaction, including a series of transactions that includes that transaction, gives rise to a tax benefit;
- ii. whether the transaction is an avoidance transaction, including a transaction that is part of a series; and
- iii. why it may **not** reasonably be considered that the transaction would result directly or indirectly in a misuse or abuse as described in subsection 245(4) of the Act.

Additional guidance on matters to consider in the course of preparing a submission for a requested Ruling, including a submission in respect of the GAAR, is provided in Appendix A.2 – Advance income tax ruling request reference guide.]

**See the Privacy notice in ¶56 and 57 of IC70-6R9**

## Appendix A.2 – Advance income tax ruling request reference guide

The following information provides additional guidance on the preparation and submission of an advance income tax ruling and supplemental ruling (Ruling) request as outlined in Appendix A.1 – Advance income tax ruling request template.

A Ruling is only issued by the Income Tax Rulings Directorate (Directorate) in response to a written request that includes all of the required information outlined in Appendix A – Advance income tax ruling request checklist and described in Appendix A.1 – Advance income tax ruling request template. The checklist in Appendix A can help you decide what information must be included in your application to the Directorate.

### Best Practices

Remove all customized formatting from the required electronic copy of your Ruling request (Microsoft Word format), to help us process your request more efficiently.

## Requesting the Directorate's Services

Requests for Rulings may be mailed, faxed, or emailed to the Directorate at:

### Mail:

CRA - Income Tax Rulings Directorate  
320 Queen Street  
9th Floor, Tower A, Place de Ville  
Ottawa ON K1A 0L5

Email: [itrulingsdirectorate@cra-arc.gc.ca](mailto:itrulingsdirectorate@cra-arc.gc.ca)

Fax: (613) 957-2088

Ruling requests can be directed to a particular Division within the Directorate based on the primary tax technical area that is the subject of your Ruling request. Using the chart below, identify the appropriate Division to direct your Ruling request to and insert the title of this Division into the attention line of your Ruling request. For example, **Attention: Director, International Division**.

Division	Tax Technical Areas
Reorganizations	corporate reorganizations, resource taxation, partnerships and corporate financing
Business and employment income	business and employment income, non-profit organizations, indigenous peoples and capital gains
International	international and administrative law
Financial industries and trusts	financial industries, trusts, charities and deferred income plans

### Contact person

Give the name(s) of the person(s) that the Directorate can contact for your Ruling request. Include the mailing address, telephone number and email address for the contact(s). If a tax professional has been engaged by the taxpayer, complete Appendix B – Representative authorization.

### Reference Line (Re:)

Include a general statement of the subject of the Ruling being requested. For example, Advance Income Tax Ruling Request – Paragraph 55(3)(b) Butterfly.

**Taxpayer(s)** means the taxpayer(s) making the Ruling request and is the taxpayer for whom any issued Ruling is binding upon the CRA.

**Identification Number** means the taxpayer(s) Business Number (BN), Social Insurance Number (SIN), or Trust Account Number (TAN), as the case may be.

Identify the tax services office and the tax centre where the taxpayer files their return. For example: Tax services office: Regina (Saskatchewan); Tax centre: Prince Edward Island.

## Confirmation

There are situations in respect of which the Directorate will not or cannot issue a Ruling as set out in ¶19 of IC70-6R9.

A confirmation statement must be included in the Ruling request in accordance with ¶19(a) of IC70-6R9. Upon signing the Ruling request, the taxpayer or authorized representative is attesting to these representations.

If the proposed transactions or issues involved in the Ruling request are the same as, or substantially similar to transactions or issues that were the subject of a Ruling request previously considered by the Directorate (previous Ruling request), provide a detailed description of the facts and circumstances surrounding the previous Ruling request.

## Definitions

The first portion of the Definitions section includes standard statements applicable to all Ruling requests. These statements incorporate references to the Income Tax Act and the Income Tax Regulations into the Ruling request. Statements are also included to define the base currency to be used for monetary amounts, and to incorporate the interchange of the singular and the plural where necessary in the Ruling request. These statements should be included in your Ruling request.

### Best Practices

List all definitions in alphabetical order.

Avoid using number or letter formatting to list the definitions.

Quotation marks or bold highlight can be used to identify the particular term, expression or relevant party that is being defined.

Facts relevant to the Proposed Transactions should not be included in the Definitions section.

## Abbreviations and terms and expressions

Use generic terms to identify **all** abbreviations and terms and expressions that will be used throughout the Ruling request. Provide a concise description of the specific meaning of each defined term.

## Relevant parties

Use generic names to identify **all** of the parties that are relevant to the Proposed Transactions. The relevant parties may include, among others, individuals, corporations, trusts and/or partnerships.

### Note

The relevant parties can be listed in a separate section within the Definitions section under the heading **Relevant Parties**. This can be helpful if there are a significant number of parties that need to be referenced in the Proposed Transactions.

**Individuals** can be referenced based on their relationship to each other. For example, Spouse, Parent, Child, Mother/Father or Sibling. The addition of a number or lettering system can distinguish between multiple individuals with the same generic name. For example, Sibling 1, Sibling 2, Sibling 3 or Mr. A/Mrs. A and Mr. B/Mrs. B.

Generally, the suffix “co” can be added to a generic name to identify a **corporation**. For example, corporate taxpayers can be referred to as Aco, Bco and Cco or Opco, Holdco and Newco.

**Partnerships, trusts** and persons connected to such entities can be identified in a similar manner. For example, ABC Partnership and Partner A, Partner B and Partner C; Family Trust, Trustee 1 and Trustee 2 and Beneficiary 1 and Beneficiary 2.

## Facts

Give a full description of **all** the relevant facts applicable to your Ruling request so that the Directorate has all the information necessary to provide a response. Include details of the relevant parties involved and a description of the organizational and the ownership structures.

If appropriate, consider using descriptive sub-headings to identify facts based on, for example, the relevant parties or residency.

You may need to include an estimate in respect of, for example, an amount or date, where it is not possible to verify the statement with reasonable certainty. If you include an estimate in the Facts, you must identify it as an estimate and include the reason why you made the estimate.

### Best Practices

The Facts should not include any names, abbreviations or terms and expressions that have not been identified in the Definitions section.

The facts should generally be arranged in chronological order.

Do not include as a fact, a subjective judgement or opinion, or a statement that is subject to contention.

## Relevant Parties to the Proposed Transactions

Details for a **corporation** may include, among other things, the place/jurisdiction and date of incorporation, residency, tax status (public, private, Canadian-controlled private corporation, etc.) and tax balances (refundable dividend tax on hand, capital dividend account, general rate and low rate income pools, etc.).

Details for an **individual** may include, among other things, a description of their connection to the proposed transactions.

Details for a **trust** (including a mutual fund trust) may include, among other things, a listing of the settlor, trustees, manager, and beneficiaries of the trust, relevant details of the trust terms, residency of the trust and beneficiaries, the main assets of the trust and the date the trust was settled. For a mutual fund trust describe the undertaking of the trust.

Details for a **partnership** may include, among other things, a listing of the partners (limited/general) and relevant details of the partnership agreement, including the governing jurisdiction for the partnership (Province/Territory/State/Other).

You may find the relevant information in the following documents:

Articles of incorporation (or other such constating documents), financial statements, corporate income tax returns (T2) and other income tax information returns, trust or partnership agreements and other relevant agreements, contracts and documents, etc.

## Organizational Structure of Entities

Explain the relationships among the relevant parties involved in the Proposed Transactions. Provide a complete description of the horizontal and vertical structure, as the case may be, identifying controlling and non-controlling interests and any relevant foreign entities (including foreign affiliates).

You may find the relevant information in the following documents:

Organizational charts, corporate income tax returns (T2) and other income tax information returns, trust or partnership agreements and other relevant agreements, contracts and documents, etc.

## Share Capital, Unit Structure or Interest of Entities

Identify and describe the attributes of each class of **shares** including: voting rights, rights of redemption and retraction, participation/non-participation and entitlement to discretionary dividends. Provide the number of issued and outstanding shares for each class. Indicate the number and percentage of shares held by each shareholder and identify the tax attributes of the shares including: the paid-up capital, the adjusted cost base and, where appropriate, the fair market value.

Identify and describe the attributes of each class of **units** including: voting rights, rights of redemption and/or conversion, and distribution rights. Indicate the percentage of units held by non-residents. Provide the number of units of each class that are issued and outstanding.

You may find the relevant information in the following documents:

Share register, shareholder/trust/partnership agreement(s), minute books and/or directors' resolutions, etc.

**Other fact(s) or information**

Give a full description of any other fact(s) or information relevant to your Ruling request.

**Completed Transactions [If applicable]**

Identify and describe all significant transactions that were completed or partially completed prior to the time the Ruling request is submitted. The transactions that are to be included are those that are necessary to achieve the purpose of undertaking the Proposed Transactions and that may be part of the series of transactions.

This section may include, for example, the formation of an entity (incorporation of a corporation or the formation of a trust or partnership), share capital reorganizations or share subscriptions, or any loans, transfers or distributions of property that may be considered to be part of the series of transactions.

**Proposed Transactions**

Give a complete description of each proposed transaction, including transaction dates.

The details of the proposed transactions should be reasonably certain before applying for a Ruling request. A Ruling cannot be issued if the proposed transactions are not seriously contemplated or the time frame for implementation of the transactions has not been determined (see ¶19(b) of IC70-6R9).

If appropriate, consider using descriptive sub-headings to identify transactions which operate together to effect a particular tax outcome or result. For example, in a corporate context such headings may include: Incorporation of Subco; Subscription for shares of Subco; Transfer or distribution of assets; Cross-redemption of shares, etc.

**Best Practices**

Each paragraph should refer to a separate proposed transaction.

The proposed transactions should generally be organized in chronological order.

**Additional information [If applicable]**

**Written representations**

Include in the additional information, written representations or assurances that confirm certain matters that may be applicable at all relevant times during, or subsequent to, the implementation of the Proposed Transactions.

These representations notify the Directorate of a fact/situation that you are relying on during the implementation of the Proposed Transactions and/or a fact/situation that is expected to apply after the implementation of the Proposed Transactions.

**Example**

The additional information section may include, but is not limited to, representations or assurances relating to the following matters:

- the status of an entity for tax purposes (e.g. a taxable Canadian corporation, a partnership, a specified financial institution);
- a representation that certain amounts will be less than, equal to, or not exceed, specific amounts or values;
- a representation that a specified event will or will not take place (e.g. issues relating to: the payment of relevant amounts, the filing of forms, the amalgamation, dissolution or winding-up of entities, the disposition or acquisition of a property);
- the relationship for tax purposes of the relevant parties (e.g. affiliated, related, arm's length/non-arm's length); and
- various other issues such as control and residency.

The above list of examples is not exhaustive as the information to be included in this section can vary significantly between Ruling requests. However, it is important that any such matters that may be relevant to the Proposed Transactions be clearly identified.

If it is determined that additional information is required, this information will be requested by the Directorate. This can cause a delay in reviewing your Ruling request. For more information on a Request for additional information, see ¶24 and 25 of IC70-6R9.

### **Purpose of Proposed Transactions**

Provide a statement of the purpose of each proposed transaction which clearly describes the tax and/or non-tax reasons for undertaking the particular proposed transaction.

#### **Best Practices**

Refer to Rulings previously issued by the Directorate for examples of the content and the presentation of a statement of purpose.

Be transparent and complete in your description of the purpose to avoid unnecessary delays or, in some circumstances, the inability of the Directorate to issue a Ruling.

It may be the case that a proposed transaction that achieves a particular tax result is separated into its component steps for the purposes of providing a complete description in the Proposed Transactions section. In this situation, it may be appropriate to provide one statement of purpose in respect of these proposed transactions.

For example, the proposed transactions might include the creation of a new entity. This transaction may be described in terms of its component steps such as the incorporation of the entity and a subscription for its shares. In this instance, the Directorate may find that it is appropriate to accept a description of the purpose of the creation of the new entity, rather than the purpose of each component step leading to the creation of that entity.

If it is determined that additional information is required, this information will be requested by the Directorate. This can cause an undue delay in the issuance of a Ruling. A Ruling cannot be issued if there is uncertainty as to the reason for a proposed transaction or transactions.

Recall that the Directorate will generally not issue a Ruling if, among other things, the Ruling request or Proposed Transactions results in one of the situations described in ¶19(d) through (l) of IC70-6R9.

### **Rulings Requested**

Provide a separate statement for each Ruling being requested. A requested Ruling should clearly identify the relevant provision(s) of the Act or the Regulations, and how the particular provision(s) are to be interpreted in the context of the Proposed Transactions. For example, a Ruling can confirm that a provision will or will not apply to a particular proposed transaction or to the Proposed Transactions as a whole.

Rulings give assurance on the income tax treatment of proposed transactions where there is doubt regarding the interpretation of the legislation in the particular circumstance. Accordingly, the taxpayer or the authorized representative must include a submission to support each Ruling requested. This submission should clearly identify the issue(s) of concern and the taxpayer's or the authorized representative's views as to how the issues(s) will be resolved by the Ruling. More information on the preparation of submissions can be found in Supplement 2.

A requested Ruling will only be considered by the Directorate if the taxpayer or the authorized representative can demonstrate that there is ambiguity in the legislation giving rise to an **interpretative** concern (see ¶19(g) of IC70-6R9).

The Ruling represents the specific statement that is binding on the CRA with respect to the recipient taxpayer(s). However, the Ruling response letter will provide for restrictions on any issued Ruling(s) if there is a material omission or misrepresentation. This is discussed in ¶14 of IC70-6R9 and an illustration of this restriction can be found in the Rulings Requested section of Appendix A.1. Additional restrictions that may apply to your Ruling request are discussed below in the Comments section.

**Best Practices**

A Ruling should always be in the form of a statement of the application of the Act or the Regulation, rather than as an open question of interpretation.

Refer to Rulings previously issued by the Directorate for examples of the content and presentation of a Ruling.

The application of GAAR should always be considered, even if a GAAR Ruling is not being requested.

**Comments**

A Ruling may be issued subject to certain qualifications, caveats, disclaimers or comments (comments) as set out in ¶14 of IC70-6R9. Such comments are statements which may be added to the Ruling letter to further limit the application of an issued Ruling.

The following Example provides a list of comments that have previously been included in Rulings issued by the Directorate. This is not an exhaustive list of the comments that may be applicable to your particular Ruling(s).

**Example**

Unless otherwise confirmed in the above Ruling(s), nothing in this letter should be construed as implying that the CRA has confirmed, reviewed or has made any determination in respect of:

- The fair market value or adjusted cost base of any property or the paid-up capital of any shares referred to herein, or the outstanding balance of various tax accounts for any of the corporate entities described herein;
- The reasonableness of fair market value of any fees or expenditures referred to herein;
- The amount of any non-capital loss, net capital loss or any other amount of any corporation referred to herein;
- The provincial income tax implications relating to the allocation of income and expenses under the Proposed Transactions;
- Subject to Ruling X, the application or non-application of a general anti-avoidance provision of any province;
- The confirmation of tax-related calculations;
- Whether any of the properties described in the Ruling are capital properties; and
- Any other tax consequence relating to the Facts, Proposed Transactions, or any transaction or event taking place either prior to or subsequent to the Proposed Transactions, whether described in this letter or not, other than those specifically described in the Ruling(s) given above, including whether any of the Proposed Transactions would also be included in a series of transactions or events that includes other transactions or events that are not described in this letter.

**Supplement 1 – Taxpayer information**

For all relevant parties in respect of which a Ruling is requested, provide the following information:

- Taxpayer's name;
- Identification Number (Business Number; Social Insurance Number or Trust Account Number);
- Taxpayer's Address (Street Number and Name, Apartment Unit, City, Province or Territory, Country, Postal Code);
- Name of the taxpayer's tax services office (for example: Montreal); and
- Tax center where the taxpayer files their return (for example: Prince Edward Island).

**Supplement 2 – Submissions****A. Ruling "A" analysis**

The taxpayer or the authorized representative must provide a submission to support each Ruling requested. A Ruling submission should clearly identify the concern or doubt regarding the taxpayer's/authorized representative's interpretation of the legislation relevant to the particular Ruling requested.

This submission must include an analysis of the specific Ruling in the context of the relevant legislation, case law, CRA publications including Rulings and/or Technical Interpretations, Department of Finance Explanatory Notes and any other relevant interpretive source. It is essential that the taxpayer or the authorized representative provide their interpretive views for each relevant authority. These views must be specific to the Proposed Transactions identified in the particular Ruling, and the analysis must include all authorities that both support or challenge the interpretation being put forward by the taxpayer or the authorized representative.

It is required that the taxpayer or the authorized representative provide a **full and complete** submission for a requested Ruling. It is not sufficient, for example, to simply restate a particular provision of the Act without including an analysis that describes the tax implications of the application of the particular provision in the context of the facts and circumstances of the Ruling requested. It is also not appropriate to merely provide a reference to a Ruling that was previously issued by the Directorate, without including an analysis that describes the interpretative principle(s) of that Ruling in the context of the particular ruling request.

Providing the required submissions with your Ruling request will help the Directorate to review and process it efficiently.

### **Best Practices**

Paragraph references in the Submissions supplement must correspond to a specific Ruling in the Rulings Requested section.

Does your submission answer the question “Why is the CRA able to grant my Ruling request in accordance with the Act/Regulations?”

## **B. Ruling “B” analysis**

See Ruling “A” Analysis above for a general description of the content of a submission.

## **C. General anti-avoidance rule analysis [If applicable]**

As noted in the Appendix A.1, if the GAAR might apply to the Proposed Transactions in the Ruling request, the taxpayer or the authorized representative must provide an analysis (GAAR Submission). The application of GAAR must be considered even if a GAAR Ruling has not been requested.

The GAAR Submission should address the 3-step framework for a GAAR analysis that was enunciated in *The Queen v. Canada Trustco Mortgage Company*, [2005] 2 SCR 601, 2005 SCC 54 (**Canada Trustco**). In broad terms, this involves an analysis of the following:

- i. whether a transaction, including a series of transactions that includes that transaction, gives rise to a **tax benefit**;
- ii. whether the transaction is an **avoidance transaction**, including a transaction that is part of a series; and
- iii. why it may **not** reasonably be considered that the transaction would result directly or indirectly in a **misuse or abuse** as described in subsection 245(4) of the Act.

More specifically, the matters and references described below should be carefully considered in the context of the Proposed Transactions. However, it is important to note that the comments described below are general in nature. Accordingly, there may be other provisions, cases or commentary not described below that are relevant to the specific Proposed Transactions. These additional authorities should also be considered by the taxpayer or authorized representative and the analysis in respect of same included in the GAAR Submission.

### **1. Legislation - Subsections 245(1) to (5) and Subsection 248(10)**

In particular, the GAAR Submission should address the following issues and provisions in the context of the Proposed Transactions:

- a. **Tax benefit** – Subsection 245(1);
- b. **Series of transactions** – Subsections 245(2) and 248(10);
- c. **Avoidance transaction** – Subsection 245(3); and
- d. **Misuse or abuse** – Subsection 245(4).

### **2. Case Law**

Consider all court cases that address the GAAR and its interpretation that might be relevant in the context of the Proposed Transactions. In particular, the following court cases, among others, establish a number of guiding principles that should be addressed in an analysis of the application of the GAAR:

- a. *The Queen v. Canada Trustco Mortgage Company*, [2005] 2 SCR 601, 2005 SCC 54;
- b. *Lipson v. Canada*, [2009] 1 SCR 3, 2009 SCC 1;
- c. *Copthorne Holdings Ltd. v. The Queen*, [2011] 3 SCR 721, 2011 SCC 63.

**3. Department of Finance and CRA Guidance**

- a. Department of Finance Explanatory Notes (for the relevant provisions); and
- b. CRA Publications (exercise caution in consulting or referencing any CRA document published prior to issuance of the Supreme Court of Canada's view in **Canada Trustco**):
  - i. Advance income tax rulings and technical interpretations;
  - ii. Income Tax Technical News, Issue No. 34 – April 27, 2006 and Issue No. 22 – January 11, 2002;
  - iii. Information Circular IC 88-2 General Anti-Avoidance Rule: Section 245 of the Income Tax Act (October 21, 1988) and IC 88-2S1 General Anti-Avoidance Rule (July 13, 1990).

**See the Privacy notice in ¶56 and 57 of IC70-6R9**

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## Appendix B – Representative authorization

This authorization gives consent to the Directorate to discuss confidential taxpayer information concerning a request for an advance income tax ruling or a pre-ruling consultation with in-house and/or third party representatives. Unless a new representative is being authorized, this authorization will also apply to a supplemental ruling request.

---

FROM: [Name and address of taxpayer]

RE: [Brief description of the advance income tax ruling (Ruling) request]

For purposes of the above request, [name of taxpayer] hereby authorizes the following individual(s) to communicate with the Canada Revenue Agency (CRA), including any related matters that arise during the consideration of the request:

- a. Name of individual: \_\_\_\_\_  
Position and/or Firm name: \_\_\_\_\_  
Telephone number: \_\_\_\_\_
- b. Name of individual: \_\_\_\_\_  
Position and/or Firm name: \_\_\_\_\_  
Telephone number: \_\_\_\_\_

### CERTIFICATION

This representative authorization must be signed and dated by an authorized person for the taxpayer such as an owner, a partner of a partnership, a director of a corporation, an officer of a non-profit organization or a trustee of a trust. By signing and dating below, you authorize the CRA to deal with the individual(s) listed above.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Position

\_\_\_\_\_  
Signature of the taxpayer or an authorized signing officer  
of the taxpayer

\_\_\_\_\_  
Date

**See the Privacy notice in ¶56 and 57 of IC70-6R9**

## Appendix C – Taxpayer undertaking to remit fee

The following undertaking to remit fee must be included with all advance income tax ruling requests where a taxpayer is submitting a request without a third party representative. This undertaking will also apply to fees charged for a supplemental ruling request.

---

FROM: [Name and address of taxpayer]

RE: [Brief description of the advance income tax ruling (Ruling) request]

IN CONSIDERATION of the Canada Revenue Agency (CRA) agreeing to examine a request for an advance income tax ruling and any supplemental ruling (together the Ruling request), the undersigned taxpayer hereby undertakes:

To remit to the CRA, within 30 days of receipt of written demand, any and all fees payable to the CRA with respect to the above-noted Ruling request, irrespective of whether the ruling has been issued, which fees are prescribed under the Advance Income Tax Ruling Fees Order, SOR/90-234.

### CERTIFICATION

This undertaking must be signed and dated by an authorized person for the taxpayer such as an owner, a partner of a partnership, a director of a corporation, an officer of a non-profit organization or a trustee of a trust.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Position

\_\_\_\_\_  
Signature of the taxpayer or an authorized signing  
officer of the taxpayer

\_\_\_\_\_  
Date

**See the Privacy notice in ¶56 and 57 of IC70-6R9**

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## Appendix D – Undertaking by representative’s firm to remit fee

The following undertaking to remit fee must be included with all advance income tax ruling requests submitted by a third party authorized to represent a taxpayer for the advance income tax ruling request. The undertaking must be signed by an authorized signing officer of the representative’s firm. This undertaking will also apply to fees charged for a supplemental ruling request.

---

FROM: [Name and address of representative’s firm]

RE: [Name of taxpayer and brief description of the advance income tax ruling (Ruling) request]

IN CONSIDERATION of the Canada Revenue Agency (CRA) agreeing to examine a request for an advance income tax ruling and any supplemental ruling (together the Ruling request) in which the firm is involved, the undersigned firm hereby undertakes:

To remit to the CRA, within 30 days of receipt of written demand, any and all fees payable to the CRA with respect to the above-noted Ruling request, irrespective of whether the ruling has been issued, which fees are prescribed under the Advance Income Tax Ruling Fees Order, SOR/90-234.

### CERTIFICATION

This undertaking must be signed and dated by an authorized signing officer of the representative firm.

\_\_\_\_\_  
Firm name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name of signing officer (print)

\_\_\_\_\_  
Position

\_\_\_\_\_  
Signature of signing officer of the representative firm

\_\_\_\_\_  
Date

**See the Privacy notice in ¶56 and 57 of IC70-6R9**

## **Appendix E – Standard consent to release an advance income tax ruling to commercial publishers**

This consent authorizes the release of the final advance income tax ruling in a severed form to commercial publishers and it must be included with all advance income tax ruling requests. This consent will also apply to a supplemental ruling issued in connection with the initial advance income tax ruling.

---

FROM: [Name and address of taxpayer]

RE: [Brief description of the advance income tax ruling (Ruling) request]

The taxpayer hereby authorizes the Canada Revenue Agency to release a severed version of the Ruling noted above, and of any supplemental ruling, to commercial publishers.

### **CERTIFICATION**

This consent must be signed and dated by an authorized person for the taxpayer such as an owner, a partner of a partnership, a director of a corporation, an officer of a non-profit organization or a trustee of a trust.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Position

\_\_\_\_\_  
Signature of taxpayer or authorized signing  
officer of the taxpayer

\_\_\_\_\_  
Date

**See the Privacy notice in ¶56 and 57 of IC70-6R9**

**Appendix F – Standard authorization for email and facsimile transmission for communication with the Income Tax Rulings Directorate**

Where the taxpayer or their representative wishes to communicate with the Directorate by email or facsimile, an authorization for email and facsimile transmission must be completed. If an advance income tax ruling is being requested, this authorization will also apply to a subsequent supplemental ruling, unless a new representative has been appointed, in which case a new authorization must be provided.

FROM: [Name and address of taxpayer]

RE: [Brief description of the Pre-ruling Consultation, advance income tax ruling (Ruling) or technical interpretation request]

I hereby authorize the Canada Revenue Agency (CRA) to email and/or fax all correspondence concerning the above-noted request, made by, or on behalf of, the above-noted taxpayer. The correspondence is to be transmitted to the following email address and/or fax number:

Name(s): \_\_\_\_\_

Email Address: \_\_\_\_\_

Fax 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 and further recognize that all email messages sent over the internet may be considered as being accessed and disclosed to unknown third parties somewhere in the world. 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 this request.

**CERTIFICATION**

This authorization must be signed and dated by an authorized person of the taxpayer such as an owner, a partner of a partnership, a director of a corporation, an officer of a non-profit organization or a trustee of a trust.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Position

\_\_\_\_\_  
Signature of taxpayer or authorized signing officer of the taxpayer

\_\_\_\_\_  
Date

**See the Privacy notice in ¶56 and 57 of IC70-6R9**

## Appendix G – Pre-ruling Consultation request and undertaking

This appendix must be completed and returned with all required attachments to the Directorate at the address indicated in ¶41 of IC70-6R9.

### Request from:

\_\_\_\_\_  
 [Name of Firm – if an authorized representative, taxpayer authorization is required]

\_\_\_\_\_  
 [Name of Individual]

\_\_\_\_\_  
 [Address of firm]

We request a Pre-ruling Consultation regarding technical issues related to certain proposed transactions.

Please find attached our submission setting out the following details:

- the name(s) of the taxpayer(s);
- Representative authorization, if applicable (see Appendix B);
- Standard authorization for email and facsimile transmission for communication with the Income Tax Rulings Directorate (see Appendix F);
- a description of all relevant facts and proposed transactions related to the unique, new technical issue(s);
- an explanation of the issue(s) and our views in relation to the issue(s), including our analysis of the relevant provisions of the Income Tax Act and related legislation, and any relevant case law, advance income tax rulings, and/or technical interpretations.

We enclose a deposit of \$2,500.

In making this request, we acknowledge and confirm our acceptance of the following terms:

1. A Pre-ruling Consultation will only be considered in connection with a proposed transaction. Alternative transactions will not be considered at any time during the Pre-ruling Consultation.
2. Where the Income Tax Rulings Directorate (Directorate) agrees to participate in a Pre-ruling Consultation, the consultation will be conducted via teleconference. By exception, the consultation may be conducted in a meeting.
3. The Directorate will indicate whether it would consider the issue further in the context of an advance income tax ruling (Ruling).
4. The Directorate's indication of a willingness to consider the issue further in the context of a Ruling request does not indicate that a positive Ruling will be issued and we will not take any comfort regarding the Directorate's position on technical issues or the tax consequences of the proposed transactions. Any comments provided by the Directorate will not be binding on the Canada Revenue Agency (CRA).
5. A reasonable number of representatives will participate in the teleconference.
6. The Directorate will not provide any written comments.
7. Any information disclosed to the Directorate may be shared with other Branches of the CRA, or the Department of Finance, within the limits of the confidentiality-of-taxpayer-information provisions of section 241 of the Income Tax Act.
8. Agreement to participate in a Pre-ruling Consultation does not constitute the commencement of a Ruling and it will not affect the priority given to a subsequent request for a Ruling submitted as a result of the Pre-ruling Consultation.
9. As described in ¶43 and 44 of IC70-6R9, a fee is charged for each hour or part of an hour spent on the Pre-ruling Consultation. All time spent processing a Pre-ruling Consultation will be charged, regardless of the outcome of the Pre-ruling Consultation.

10. We undertake to remit to the CRA, within 30 days of receipt of written demand, any and all fees payable to the CRA with respect to the above noted Pre-ruling Consultation request, regardless of the outcome.

\_\_\_\_\_  
Signed for and on behalf of [insert firm name]

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Print name]

**See the Privacy notice in ¶56 and 57 of IC70-6R9**