

December 9, 2015

The Honourable Bill Morneau, P.C.  
Minister of Finance  
House of Commons  
Ottawa, Ontario K1A 0A6

Re: Taxation of Non-Resident Entertainers

Dear Minister,

We are writing as a collective of seventeen performing arts organizations representing more than 1,000 Canadian stakeholders in order to bring forward recommendations for improving the taxation regime of non-resident entertainers, including the Regulation 105 and Regulation 102 Withholding, as well as the information return and the tax return requirements. This letter follows earlier correspondence with the former Ministers of National Revenue and Finance (attached), as well as discussions with the Specialty Audit Division at the Canada Revenue Agency.

Major performing arts organizations in Canada regularly contract for the services of non-resident artists and companies, in addition to engaging a large number of artists residing in Canada. In recent years, however, increases in standards for compliance have rendered the taxation of non-resident entertainers cumbersome to the point of impeding the regular business of Canadian performing arts organizations: a large number of waivers are being denied for failing to meet the increased standards, waiver processing times have nearly doubled, and a growing number of non-resident companies are assessed penalties for not filing information or tax returns. As a result, many foreign artists and companies are no longer interested in touring to Canada. As an example, the Bolshoi Ballet has written Les Grands Ballets Canadiens stating that the company will no longer tour to Canada because of the Canadian tax requirements.

Our working group identified several recommendations to improve the taxation of non-resident entertainers – these recommendations are detailed in the attached brief. We would like to bring to your attention two recommendations that relate directly to the responsibilities of your department. First, we would like your government to enact the “Legislative Proposals Relating to the Income Tax Act and Regulations” introduced in July by the former government (recommendation 5 in the brief). Second, we would strongly encourage the government to integrate a few specific exclusions from the Commentary on Article 17 of the 2014 OECD Model Tax Convention into Canada’s tax treaties (recommendation 7 in the brief). While these two recommendations are equally important, they differ with regard to their urgency: the Legislative Proposals are meant to be enacted now; amendments to tax treaties may only happen as treaties are reopened for negotiation.

We would appreciate the opportunity to discuss these and other recommendations with key staff from your office, from the Specialty Audit Division of the Canada Revenue Agency, and from the Tax Policy Branch of Finance Canada. You may contact Frédéric Julien, Director of Research and Development at CAPACOA, to set up a meeting or for further information.

Sincerely,

Paul Gravett



President, CAPACOA

On behalf of:

'Arts Common Presents' / Arts Commons Programming

Canadian Dance Assembly

Canadian Independent Music Association

CanDance Network

Cusson Management

Danse Danse

East Coast Music Association

Eponymous

Festival International de Jazz de Montréal

Festivals and Major Events Canada

Les Grands Ballets Canadiens de Montréal

Lula Music and Arts Centre

National Arts Centre

North American Performing Arts Managers and Agents

Music Canada Live

Regroupement des événements majeurs internationaux

Encl.

c.c.:

The Honourable Diane Lebouthillier, Minister of National Revenue

The Honourable Mélanie Joly, Minister of Canadian Heritage

Isabelle Gervais, Director, Specialty Audit Division, Canada Revenue Agency