

December 9, 2015

The Honourable Diane LeBouthillier, P.C.
Minister of National Revenue
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. While recommendation 5 and 7 pertain to the responsibilities of the Department of Finance (and are being addressed with the Minister of Finance), all other recommendations relate to the mandate of the Canada Revenue Agency. They are ordered so as to follow the workflow of the non-resident taxation process; the order does not reflect a sense of priority. This being said, a few recommendations appear particularly timely or urgent:

- Recommendation 4, “Increase and Index the De Minimis Threshold for Waivers”, reflects the introduction of a new commentary on Article 17 of the 2014 OECD Model Tax Convention.

- Recommendation 6, “Adopt a Phased-In Approach in the Enforcement of Penalties for late filing of T4A-NR, T4-NR, T1, and T2 Returns of Non-Residents”, speaks to issues that have arisen in the last year and that have a detrimental impact on Canadian performing arts presenters.

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 Bill Morneau, Minister of Finance

The Honourable Mélanie Joly, Minister of Canadian Heritage

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