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

PRINCIPAL ISSUES: Change in position.

POSITION: Since January 1, 2014, lottery ticket retailers must include in their income the amount or value of any prize they receive in a year from a provincial lottery corporation for selling a winning ticket, because these amounts are received as part of their normal business activity.

REASONS: See below.

April 23, 2014

XXXXXXXXXX

Dear XXXXXXXXXXXX:

Thank you for your correspondence of February 24, 2014, about the Canada Revenue Agency (CRA) changing its position regarding commissions lottery ticket retailers receive. The CRA is committed to supporting small and medium-sized businesses by reducing red tape and making it easier for them to access services and fulfill their tax obligations.

Before 2014, the CRA's position outlined in Interpretation Bulletin IT-404R, Payments to Lottery Ticket Vendors, was that any prize lottery ticket retailers received in a year from a provincial lottery corporation for selling a winning ticket was not taxable. However, generally, prizes a taxpayer receives by virtue of carrying on a business are taxable, as explained in Interpretation Bulletin IT-334R2, Miscellaneous Receipts.

Repeated concerns over the years prompted the CRA to review its position and, upon review, the CRA concluded that treating prizes paid to lottery ticket retailers as non-taxable led to inconsistent treatment between taxpayers and was no longer sustainable. Consequently, the CRA cancelled Interpretation Bulletin IT-404R on December 31, 2013.

Therefore, since January 1, 2014, lottery ticket retailers must include in their income the amount or value of any prize they receive in a year from a provincial lottery corporation for selling a winning ticket, because these amounts are received as part of their normal business activity. As with any business income, taxpayers must report all taxable amounts received in a year on that year's income tax and benefit return. There is no de minimus rule relating to the amounts that must be included in income.

CRA officials assured me that this change came only after a comprehensive review of the matter, which included discussions with Department of Finance Canada officials. I understand that the CRA communicated this change on August 2, 2013, by sending a letter to each of the provincial lottery corporations (Interprovincial, British Columbia, Western, Ontario, Quebec, and Atlantic Canada), explaining the change in position and suggesting that they inform their respective retailers. Unfortunately, it was not possible for the CRA to reach each retailer directly. The provincial lottery corporations were provided with a CRA contact name and invited to call with any questions or concerns. The new tax treatment of payments received for selling a winning ticket applies only after December 31, 2013.

The CRA's new position does not affect the taxation of any prize the holder of a winning lottery ticket receives. Those who win a prize in a lottery will continue to receive such prizes free of tax.

The CRA will soon post information on its website to help lottery ticket retailers better understand the matter. It will also send emails to various stakeholder groups to help them distribute the information about this change.

You ask if this change will result in more compliance requirements for lottery ticket retailers. I am informed that it should not result in any increased compliance requirements for your members. There are no additional forms to fill out or send in as a result of the change over and above the existing regular tax-filing obligations. My office and the CRA remain committed to reducing red tape.

It is the CRA's understanding that provincial lottery corporations are already providing lottery ticket retailers with the amounts of any commissions paid to them. The CRA continues to work closely with the provincial lottery corporations to ensure a smooth transition to its new position.

I trust the information I have provided is helpful.

Yours sincerely,

Kerry-Lynne D. Findlay, P.C., Q.C., M.P.

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