



Pension Investment  
Association of Canada

Association canadienne des  
gestionnaires de caisses de retraite

April 21, 2008

Brian Ernewein  
General Director  
Tax Policy Branch  
Department of Finance  
17th Floor, 40 O'Connor Street  
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Dear Mr. Ernewein:

**Re: Bill C-10**

Thank you for your email to Peter Waite, Executive Director of the Pension Investment Association of Canada ("PIAC"), in connection with the "comfort letter" you sent to PIAC on April 2, 2008 (the "Letter").

Although we are generally satisfied with the approach taken in the Letter, PIAC has a significant concern with one aspect of the Letter.

Specifically, the Letter states that the exemption described in the Letter would not apply to a "trust or corporation any of the activities of which is to administer, manage or invest the monies of a retirement compensation arrangement." This exception will prevent the exemption from applying to many of our members who both (1) administer a registered pension plan (a "RPP") and (2) act as a trustee or administrator of a retirement compensation arrangement (an "RCA").

As you know, it is not unusual for a pension corporation or pension trust to both administer a RPP and act as a trustee for, or administer, an RCA for the benefit of individuals who are provided with benefits under the RPP. The *Income Tax Act* expressly contemplates and permits such activities (see, for example, paragraph 149(1)(o.1) of the Act). Typically, the amounts invested in such an RCA are very small in relation to amounts invested in the corresponding RPP. This occurs because the benefit entitlements of the vast majority of the persons provided with benefits under the RPP do not exceed the maximum benefits permitted under the Act, such that it is not

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necessary to contribute amounts to an RCA in respect of such individuals. Often the RCA funds are invested in a separate trust (and to the extent a separate trust is not used, a trust is deemed to be created under subsection 207.6(1) of the Act). The RPP may invest in different assets than those of the RCA. There does not appear to be any policy reason for denying the exemption to an RPP that happens to also administer an RCA, particularly where the RCA itself does not hold any direct or indirect interest in a non-resident trust. In fact a number of our members are in such a situation where:

1. they both administer a RPP and act as trustee or administrator for an RCA which provides benefits to individuals who are provided benefits by the RPP;
2. the amounts invested in such an RCA are very small in relation to amounts invested in the corresponding RPP because the benefit entitlements of the vast majority of the persons provided with benefits under the RPP do not exceed the maximum benefits permitted under the Act; and
3. the RCA funds are kept in a separate trust (or deemed trust) which will invest in different assets than the RPP, such that the investments of the RCA do not include any direct or indirect interest in non-resident trusts.

In such circumstances, PIAC believes that it would be anomolous and unfair for the corporation or trust administering the RPP to not be entitled to the benefit of the exemption provided for in the Letter.

We therefore suggest that the Letter be amended such that rather than stating that "The exemption would not, however, apply to... a trust or corporation any of the activities of which is to administer, manage or invest the monies of a retirement compensation arrangement", the Letter would state that "The exemption would not, however, apply to ... an RCA trust as defined in subsection 207.5(1) of the Act".

This change will ensure that the exemption from resident contributor and resident beneficiary status applies to assets invested by a RPP itself (as described above), but would not apply to assets held in an RCA (regardless of whether held in a separate trust or a deemed trust).

If the Letter is amended as described above, we would be content with you indicating to the Committee that the proposed changes in the amended Letter represent a satisfactory solution to PIAC.

We would appreciate an opportunity to discuss this important matter with you at your earliest possible convenience.

Yours truly,



Roger Robineau  
Chair