

**English version \*\*\*La version française suit\*\*\***

The Canada Revenue Agency (CRA) has been contacted recently in regards to what has been perceived as a change in its policy to the filing of provisional returns. The purpose of this note is to provide some clarification as to the CRA's policy in this regard so that you might disseminate the same to your trustee members.

As per the changes made to the CRA's policy on the filing of provisional claims in 2006 and the adoption of the CAIRP Standard of Professional Conduct # 11, the CRA agreed that it would (at its discretion) file a provisional proof of claim (POC) for the amount of estimated tax for the pre-proposal period of the current taxation year, further to a provisional return filed by the debtor. Additionally where a provisional return was not filed, and thus the CRA unable to file a provisional POC, the taxpayer would be advised that any debt owing for the pre proposal period of the current year would be pursued by the CRA as a post-proposal debt.

Objections to our provisional claims policy were received from the Office of the Superintendent of Bankruptcy and several bankruptcy courts prohibiting the CRA from pursuing a debt from the pre-proposal period of the current year as a post-proposal debt. As a result of these objections, it was necessary to adjust the CRA's policy so as to place additional emphasis on obtaining a provisional return from the debtor to obtain the details of their estimated tax liability for the pre-proposal period of the current year. Further, in the absence of being able to pursue the unreported debts as a post-proposal debts, a debtor's reluctance to disclose information regarding their pre-proposal period activities will be given greater weight in the CRA's decision regarding the proposal filed by the debtor.

While the necessity to file a provisional return has been rooted in the CRA's policy and CAIRP Standard since each was adopted many years ago, the adjustment made to actively pursue those returns appears to have been interpreted as a major shift in the CRA's policy on filing provisional claims. Please be assured that is not our intention and that the CRA is committed to ensuring that our basis for our existing policy and the understanding reached with the CAIRP remains intact.

We certainly hope this clarifies the CRA's policy in regards to the filing of provisional returns. Should you wish to discuss this matter further please feel free to contact Art Weston, at (613) 954-1527 or myself directly.

*Arnold Obas*

Manager/Gestionnaire, 613.941.0577

Insolvency Section/ Section de l'insolvabilité

Collections Enforcement Division/ Division de l'exécution du recouvrement

Collections Directorate / Direction des recouvrements