

Appendix A

Ministry of Finance
Tax Compliance and Benefits
Division

Advisory and Compliance Branch

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Ministère des Finances
Division de l'observation fiscale et
des avantages fiscaux

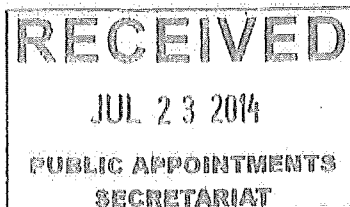
Direction des conseils fiscaux et de
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July 21, 2014

Neil Downs, Director
Public Appointments Secretariat
99 Wellesley St. West
Toronto, ON M7A 1W4



Dear Neil,

I am writing to provide you with our general understanding of the federal statutory requirements applicable to per diem payments made to part-time Ontario appointees including certain provincial judges and justices of the peace.

Income Tax

Under subsection 5(1) of the *Income Tax Act* (Canada) (ITA), income from an office or employment includes salary, wages or other remuneration. The per diem payments made to part-time appointees are generally considered "other remuneration" from an office. The payer is required to withhold amounts on account of income tax from these payments and to report the income tax withholdings and other applicable source deductions on a T4 slip.

Under section 8 of the ITA, office holders may be able to claim employment expenses against their remuneration from that office if they are required to incur expenses related to the performance of their duties. Where expenses may be claimed, the employer must complete Form T2200- Declaration of Conditions of Employment to certify the conditions of employment that require the office holder to incur the expenses.

Canada Pension Plan (CPP)

Effective December 6, 2013, as a result of an amendment to section 1 of schedule IV of the Federal CPP Regulations, part-time Ontario appointees paid on a per diem basis are exempted from pensionable employment. Hence, payments of remuneration made on or after December 6, 2013, are not subject to withholding for CPP contributions.

In situations where the Canada Revenue Agency (CRA) has assessed or provided a ruling to a payer, in effect the government of Ontario or an agent of the government of Ontario, with respect to CPP contributions for periods prior to December 6, 2013, our ministry recommends the payer complies with the CRA requirements including payment of any amounts assessed by the CRA.

Employment Insurance (EI)

The employment of individuals who are appointed and remunerated under the authority of the *Public Service of Ontario Act, 2006* is included in insurable employment and subject to withholdings for EI premiums. In addition, the employment of individuals who hold an office in or under a corporation, a commission or other body that is an agent of Her Majesty in right of Ontario and are paid on a per diem basis is included in insurable employment and subject to withholding of EI premiums.

In general, part-time appointees paid on a per diem basis are not appointed and remunerated under the authority of the *Public Service of Ontario Act, 2006*. Hence, EI premiums would not be remitted for them unless the appointee is determined to hold an office in or under a corporation, commission or other body that is an agent of Her Majesty in right of Ontario.

If the appointee or the payer is unsure of the appointee's employment status, either party can request a ruling from the CRA to have the status determined. More information is available on the CRA webpage titled Canada Pension Plan (CPP) and Employment Insurance (EI) Rulings. For information related to a specific appointee's situation, please contact the CRA at 1-800-959-5525.

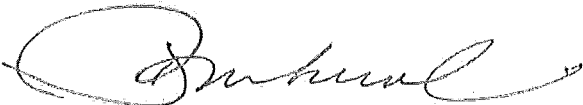
The CRA webpage titled Canada Pension Plan and Employment Insurance Explained - Tenure of office has additional information.

Harmonized Sales Tax (HST)

Services performed by office holders, like other employees, are not considered taxable supplies so they should not be collecting HST related to their services.

I trust you will find this information helpful.

Yours truly,



Dan Michaud
Director
Advisory and Compliance Branch