

## Dividend Designation From A Trust – Timing (T.I. 2016-0647621E5)

October 19, 2016

The CRA was asked a question regarding the application of Part IV tax and the determination of the timing when a corporate beneficiary of a trust receives a dividend designated under subsection 104(19) of the Income Tax Act (Canada) (the "Act").

The facts presented were as follows:

1. Opco and Gesco are both SPCCs;
2. Opco is wholly-owned by Trust;
3. Opco has a May 31<sup>st</sup> year-end;
4. Gesco and Trust have December 31 year-end;
5. On May 31<sup>st</sup>, Opco pays a \$10,000 dividend to Trust;
6. On May 31<sup>st</sup>, Trust distributes said amount to Gesco pursuant to subsection 104(19) of the Act;
7. Opco does not receive any refund of RDTOH for the year;
8. On May 31<sup>st</sup>, Opco and Gesco are "connected" pursuant to paragraph 186(4)(a) of the Act; and
9. On June 1<sup>st</sup>, Trust sells all shares of Opco to non-related third party.

The CRA concluded that given the hypothetical facts, Part IV tax would be payable by Gesco on the \$10,000 dividend received from Opco pursuant to subsection 104(19) of the Act.

Amongst the conditions of application of subsection 104(19), the trust must be resident in Canada throughout the year and an amount must be attributed to a taxpayer by the trust in its year-end tax returns. Accordingly, it is the CRA's position that an amount received by a beneficiary of a trust pursuant to 104(19) of the Act cannot be deemed a dividend received by said beneficiary until the trust's year-end. This is based on the rationale that the determination of a trust's residency throughout the year as well as the attribution itself cannot be made by prior to the trust's year-end. Furthermore, the CRA notes that the determination of whether an assessable dividend was received from a "connected" corporation must be made at the time that the dividend was received.

Given the foregoing, the CRA concluded that Gesco would be deemed to receive the dividend as of December 31<sup>st</sup>, at which point in time Opco and Gesco would no longer

be "connected" corporations as a result of the sale by the Trust of all its shares of Opco to a non-related third party. Consequently, Gesco would have to pay Part IV tax on the dividend attributed to it pursuant to 104(19) of the Act. The CRA also stated that its conclusion is equally applicable in the alternative where the Trust distributes the \$10,000 to Gesco on June 30<sup>th</sup> rather than May 31<sup>st</sup>.

By

[Joseph \(Hovsep\) Takhmizdjian](#)

Expertise

[Tax](#)

---

## **BLG | Canada's Law Firm**

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](http://blg.com)

### **BLG Offices**

#### **Calgary**

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3

T 403.232.9500  
F 403.266.1395

#### **Ottawa**

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

T 613.237.5160  
F 613.230.8842

#### **Vancouver**

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2

T 604.687.5744  
F 604.687.1415

#### **Montréal**

1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC, Canada  
H3B 5H4

T 514.954.2555  
F 514.879.9015

#### **Toronto**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing [unsubscribe@blg.com](mailto:unsubscribe@blg.com) or manage your subscription preferences at [blg.com/MyPreferences](http://blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](http://blg.com/en/privacy).

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.