

**Frequently Asked Questions Regarding the Distributor and Manufacturer  
Non-Resident Withholding Tax Agreement for Nominee Name and/or Intermediary Accounts**

**1. What Canada Revenue Agency (CRA) change made the agreements necessary?**

The CRA changed its administrative policies; effective January 1st, 2013, regarding what is acceptable for demonstrating a non-resident's entitlement to lower withholding tax rates. The CRA also introduced the NR301, 302, 303 forms (NR300s) to assist payers who choose to use the forms confirm tax treaty entitlements for non-residents. The NR300s are not mandatory to satisfy CRA requirements regarding tax treaty entitlements for non-residents. However, in anticipation of the new CRA policies, some fund companies wanted to contact clients directly to complete the NR301s rather than maintaining the current practice of relying on information from a dealer.

**2. What is the purpose of these agreements?**

The goal is to avoid both fund companies and dealers contacting the same client for non-resident withholding tax information, which would cause customer service issues. It will also save fund companies postage and staff costs associated with the forms and formalize the process which has been in effect for some time. The dealer will be the point of contact with the client and will provide to the fund company the information needed to determine what amount to remit and withhold. The fund company can rely on the information and the dealer will indemnify the fund company in circumstances where the information provided was inaccurate, or there were insufficient or unsatisfactory records/documents for CRA purposes.

**3. Who can rely on these agreements?**

Only fund companies and dealers that sign these agreements can rely on the counterparty's agreement. For example, if a fund company does not sign the agreement, it cannot rely on the fact that a dealer signed the comparable agreement; also, that fund company cannot rely on the non-resident withholding tax information gathered by the dealer and it is not indemnified by the dealer. No third parties can rely on non-resident withholding tax information gathered by the dealer.

**4. To whom and how do I send the signed document?**

Agreements can be mailed, faxed or emailed to FundSERV to the attention of Customer Relations.

Mailing address is: 333 Bay St.  
Suite 2600  
Toronto, ON M5H 2R2

Fax: (416) 362-8772

Email: [customer.relations@fundserv.com](mailto:customer.relations@fundserv.com)

**5. Do the agreements have to be updated?**

No; but if the dealer terminates an agreement, it must provide 60 days' prior written notice to FundSERV to allow fund company to make alternative plans.

**6. Who is expected to use these agreements?**

We expect that most, if not all distributors/dealers/intermediaries and manufacturers/fund companies will use these agreements for accounts held in nominee name. Each firm identifies who is an authorized signatory.

**7. I have client name business; is there an agreement for client name accounts?**

Not at present, however, it was contemplated that the nominee agreements could be modified for client-name purposes if there is sufficient interest. Please contact [cwang@ific.ca](mailto:cwang@ific.ca) if you are interested.

**8. How can I find out what companies have signed the agreements?**

FundSERV has agreed to act as a repository of the agreements. Dealers and fund companies can find the agreements on [http://www.fundserv.com/services/applications-and-services/Non-Resident\\_indemnification\\_Agreements](http://www.fundserv.com/services/applications-and-services/Non-Resident_indemnification_Agreements) . In addition, FundSERV will post the signed agreements on its site, which will be available after September 4, 2012.

**9. What information is the dealer agreeing to provide to the fund company?**

The dealer is going to provide the fund company with the following information: (i) which securities registered in the dealer's name (nominee name) are held for the benefit of a non-resident; (ii) any tax treaty entitlements; (iii) or if a different tax rate (other than the treaty rate) should be applied to the non-resident. In practice, (iii) represents what is changing, i.e. where a withholding tax rate should be other than what is indicated by whether Canada has a tax treaty with the client's country of residence, the dealer will notify the fund company in these circumstances.

**10. How does the dealer provide the information to the fund company?**

Currently the dealer would contact the fund company or its agents directly in writing. FundSERV will create options for dealers to flag the information through its networks. Once the FundSERV has created this network, dealers would be expected to use FundSERV, but have the option to still notify the fund company or its agents directly in writing.

**11. What changes can we expect from FundSERV and when?**

No changes have been scheduled yet. Currently, FundSERV expects that the Tax Code element within the FundSERV Standards will be employed unless a new child element Tax Code Override is used by dealers to notify fund companies that a withholding rate other than that associated with the accountholder's country of residence is to be used. The default child element Tax Code Override will be BLANK and can only be populated with "Y" to indicate an override is required. The Tax Code Override element will also have the ability to specify CHANGE to "N". This new element is expected to be added to all Account Setup sections and the AddModAddress NFU for all account designations – Client Name, Nominee and Intermediary. While FundSERV may incorporate changes to the Standards relating to non-resident reporting within the v23 implementation scheduled for June 2013, FundSERV will keep its users apprised of any developments.

**12. Are the dealers required to use the NR300s?**

No. The dealers individually can determine what information is necessary to satisfy the CRA. Dealers may choose to use a combination of forms including Know Your Client, account opening, and other information sources to satisfy themselves that they have sufficient information for CRA purposes.

**13. What type of records are dealers required to have?**

There is no prescribed type of records that the dealer must have; the dealer must keep records of the information it used to satisfy itself for CRA purposes. The dealer is required to keep those records for at least seven years from the earlier of (i) when the client disposes of the securities; or (ii) the client ceases to be a client of the dealer.

**14. What are the requirements related to changes in residency?**

The dealer is required to notify the fund company either directly in writing or through FundSERV of a change in residency. The fund company is required to update its withholding records within 2 days of notification. If the fund company does not update the information, the fund company will be liable for any incorrect withholding after that date.

**15. Is the dealer required to update or verify the client information?**

The dealer determines when information is required to be updated and if information from the client needs to be verified. Practically speaking, the dealer is indemnifying the fund company so if the information the dealer has provided that the fund company has acted upon proves to be inaccurate, the dealer would be liable for any underwithholding.

**16. Are there any circumstances in which the fund company can contact the client about non-resident withholding tax information?**

Yes. The dealer is the main point of contact with the client. BUT if the fund company is required by law, the CRA, or another governmental authority (e.g., an audit) to produce information related to withholding for the dealer's client and the dealer does not respond to the fund company's written request for information within 30 days, then the fund company may contact the client for the required information. Contacts of this nature occur today, and as now we expect that fund companies and dealers will collaborate as much as possible to avoid client confusion while ensuring that the neither fund manager nor dealer are disadvantaged. It is anticipated that the fund company would only be contacting the dealer's clients in very rare circumstances. To ensure that a CRA-related request is not inadvertently lost or sitting in the inbox of a person on vacation, IFIC and IIAC members are encouraged to review their contact list(s) and update them as needed.

**17. Can the dealer challenge an assessment, action, suit, etc. that it is being asked to pay for on behalf of the fund company as per the indemnity?**

Yes. If the dealer may be liable for an assessment, damages, costs, etc. pursuant to the indemnity in the agreement, the dealer, at their own expense can challenge the assessment, action, suit etc. The fund company is required not to prejudice the dealer with respect to and to respond to requests for information about any assessment, action, suit, etc.