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PARTIAL TAX EXEMPTION OF UNJSPF PENSIONS IN CANADA

Revised November 2017

Disclaimer: Although great care has been taken in preparing this document, taxpayers are responsible themselves for following official instructions and publications of the taxation authorities and for the correctness of their tax returns.

What's new?

1. The Canada Revenue Agency (CRA) and Revenu Québec accept (to convert USD amounts to CAD) the use of the official average annual exchange rate to be published by the Bank of Canada on its web site, early in January 2018 for the 2017 tax year. If an alternative exchange rate is used on tax returns, the taxpayer must be prepared to justify its use to, or obtain prior approval from, the taxation authorities.
2. Appendix D has a major modification. In recent years, Revenu Québec had accepted that employer paid medical premiums for retired UN system staff members (and which must still be reported on line 101 or line 107) could be deducted on line 297 as being exempt employment income from a UN agency. This appears no longer to be the case, particularly for agencies, such as ICAO, who have concluded agreements with the Québec government. These premiums, declared as employment income, still qualify as medical expenses for the Québec medical expenses tax credit. Taxpayers are encouraged to re-read Appendix D, in particular paragraph 6 and associated footnote 4 in that Appendix.

Taxation of United Nations pensions in Canada is based on relevant clauses of the Tax Treaty between Canada and the United States which provide that a Canadian resident receiving a pension arising in the United States enjoys the same tax exemptions as a resident of that country. This means that U.S. tax law and its interpretation, rather than Canadian tax law, is the determining factor in calculating the amount of the tax exemption for UNJPSF payments, when filing a Canadian tax return.

A definitive agreement between the Competent Authorities of Canada and the United States was reached to the effect that payments from the UNJSPF to recipients and their survivors qualify for partial exemption from taxation for Canadian residents, under the terms of the Canada-United States Tax Treaty. Competent Authorities are the official bodies charged with harmonizing differences that arise in the interpretation of tax treaties whenever a taxpayer considers that he/she is being taxed in a manner that is not consistent with a Tax Treaty. In the event of a conflict with national tax laws and the provisions of a Tax Treaty, the Treaty overrides national tax laws and can alter tax obligations.

In February 2008, John Northcut received authoritative information in an official letter from the Headquarters of the Canada Revenue Agency (hereinafter CRA) in Ottawa as to the guidelines to be followed by the CRA regional offices in determining a taxpayer's eligibility for this partial tax exemption and how it is to be calculated. This information had been confirmed by a tax settlement refund that René Pouliot obtained from the CRA on appeal of a 2005 tax assessment.

Briefly summarized and subject to the more detailed provisions appearing below, a resident of Canada is able to claim as a deduction from his UNJSPF income: an amount equal to the sum of his own contributions to the UNJSPF, added to the contributions of his employer (unless the Canadian resident is a US citizen in which case different rules apply), apportioned over a period of years the length of which depends on the pension (annuity) starting date, the age at retirement and, for more recent retirees, the combined ages of the pensioner and of any survivor beneficiary at retirement.

For those retirees who have withdrawn a lump sum in reduction of their pension capital and income and instructed the UNJSPF to do a direct transfer of this sum to

an RRSP¹, a proportional amount is deducted from the sum of employee and employer contributions, the remainder being considered as the « cost » of the annuity (pension) eligible for exemption. A direct transfer to an RRSP, however, is not tax efficient since all amounts when eventually withdrawn from the RRSP and/or an eventual RRIF will be fully taxable. See later in this document the section entitled *UN Retirees receiving a PARTIAL LUMP SUM settlement while residing in Canada*.

This exemption is to be calculated in accordance with the provisions of Publication 575 of the Internal Revenue Service (hereinafter IRS) of the United States and “Worksheet A” thereto (found on a page towards the end of that publication). In accordance with the information provided on an earlier page of IRS Publication 575, it is possible for survivors, and if applicable, the heirs of a UN pensioner, to benefit from any unclaimed balance of the tax exemption provided hereunder. (Publication 575 is available on the web at www.irs.gov/pub/irs-pdf/p575.pdf. Normally, this publication is revised every year to take into account changes in US tax law so the publication may need to be consulted each year to look for any changes.)

It has long been the practice of Québec and other provincial taxation authorities to implement the decisions of the Canadian Competent Authority. In the absence of any contrary information, members may therefore assume that this is the case with respect to partial exemption also by provincial taxation authorities.

In addition, taxpayers can claim an adjustment of their taxes retroactively for a period of up to ten years, subject to the responsible Minister’s discretion, which is usually granted by the taxation office doing the revision without actually requesting the Minister’s approval. Claims for adjustment of prior years are made on CRA Form T1-ADJ E (for federal returns) and *Revenu Québec* Form TP-1.R-V (for Québec provincial returns). This means that during any calendar year taxpayers may make claims dating back to the tax year ten years previous. For example, during 2017, back to and including 2007, during 2018, back to and including 2008, etc.

1. Whenever RRSP is mentioned in this document, the guidelines applicable to an RRSP generally also apply to an Individual Retirement Account (IRA) for a US citizen residing in Canada.

FOR THE MAJORITY OF CAFICS MEMBERS

Appendix A to this letter contains the substantive part of the information received by John Northcut in the official letter from the CRA on this subject. Redacted portions of the letter contain information intended only for Mr. Northcut.

In order to claim this exemption, CAFICS members should proceed as follows:

1. Study the requirements set out in **Appendix A**, and if you consider that you are eligible to claim this exemption (this will be the case for a majority of CAFICS members whether retirees or survivors of retirees), collect the following information :
 - a) Date of commencement of annuity (UNJSPF pension);
 - b) Total amount of the contributions to the UNJSPF (in US dollars), as confirmed by the UNJSPF or the last agency where you worked²;
 - c) Amount of lump sum withdrawn from the Fund (in US dollars) and **transferred** to an RRSP **directly** by the UNJSPF (and not paid to you at the time of lump sum withdrawal), and percentage of the actuarial value of the pension that this lump sum represented (see below for further details on calculating this); and
 - d) Rates of exchange used to convert the UNJSPF payments into Canadian dollars for every year for which a claim for exemption is made (this should be the rate of exchange used when the tax return was filed).
2. On the basis of the above information, complete “Worksheet A” of IRS Publication 575 in US dollars for every year for which a claim is made, complying with the instructions appearing on that Worksheet. You will find a sample of “Worksheet A” attached at Appendix C herein, the words with a “~~strikethrough~~” not relevant to Canadian tax returns.

2. Please note that the taxation authorities normally require that a photocopy of an official letter from the UNJSPF (or the last agency where you worked) showing the amount of the contributions to be included with Worksheet A (at Appendix C) in your tax return(s).

Item 1: will be the total of your UN Pension income for that year in US dollars (ignore the second sentence in Item 1, beginning with the words « Also, add this amount . . . » since this applies to completing U.S. tax forms).

Item 2: will be the total of your own contributions to the Fund as certified by the UNJSPF **multiplied by 3 so as to include the employer contributions to the UNJSPF** (unless you are a US citizen).³ However, from this total an amount is subtracted if a lump sum was taken as a **direct transfer to an RRSP** by the UNJSPF (without any payment being made by the UNJSPF directly to you)⁴.

The amount to be subtracted (to account for a direct transfer from the UNJSPF to a RRSP) is calculated in the following manner:

- a) Determine the actuarial value of the pension. Assuming the lump sum withdrawal was 1/3 of the pension, the actuarial value will be the lump sum multiplied by 3. If the lump sum was 20 per cent of the total, the actuarial value will be the lump sum multiplied by 5;
- b) Determine the proportion that the cost of the annuity was to the actuarial value of the pension (to 2 decimals as a percentage) as follows:

$$\frac{\text{Total contributions (staff member + employer)} \times 100}{\text{Actuarial value of the pension}} = x\%$$

This will give you a percentage figure, for example:
36.25% or .3625

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3. Canadian residents who are US citizens are only entitled to include their own contributions to the UNJPSF not the employer contributions. But see later in this guide, the section headed *Dual Nationals of the United States and Canada* under **Special Situations**. Also, note that if a deceased UN employee who died while on duty was a US citizen but the surviving spouse is not a US citizen, the survivor is allowed to include the employer contributions.
 4. Do not confuse a direct transfer to an RRSP (trustee-to-trustee transfer) with any amount you may have been paid directly by the UNJSPF and that you contributed yourself to an RRSP using your Unused RRSP Deduction Limit (shown on your most recent Notice of Assessment for your federal tax return).

- c) Apply this percentage to the lump sum and deduct the resulting amount from the total amount of contributions;
- d) The remainder will be the amount to enter in Item 2 of “Worksheet A” in US dollars. In terms of US dollars, this amount will be unchanged throughout the whole period of years for which the exemption is claimed.

Items 3, 4 and 5: Follow the instructions of “Worksheet A”.

Item 6: If you have not claimed this exemption for any previous year or your pension starting date was before 1987, this item will be blank⁵. It is preferable to start completing “Worksheet A” from the first year for which you can claim a prior year’s exemption and work forward as these Worksheets A form a continuous series linked through items 6, 10 and 11. Retain any “Worksheet A” completed for prior years to use when filing adjustments for future years.

Items 7 and 8: Follow the instructions of “Worksheet A”.

Item 9: Follow the instructions in the first two sentences. Other provisions of the U.S. Tax Code are not relevant to a Canadian taxpayer so the remainder of the instructions in Item 9 starting with the words “Also, add this amount” can be ignored.

Items 10 and 11: Complete as instructed in “Worksheet A”.

- 3. On line 256 of your Federal Income Tax Return and on line 297 of your Québec Income Tax Return enter the amount of Item 8 on “Worksheet A” converted to Canadian dollars at the applicable rate for that year. Use the Bank of Canada official average exchange rate (unless you have approval from, or can justify to, the CRA the use of an alternative rate) to convert US dollars to Canadian dollars. In terms of US dollars, this amount will remain unchanged over the years that the

5. However, if you have received a partial lump sum at the time of retirement that was not directly transferred to an RRSP, refer to the instructions later in this document about how to report this on your tax return. Include on line 6 of the first Worksheet A submitted the tax-free portion of the lump sum as being an amount you previously recovered tax-free. Also, write a footnote at the bottom of the first Worksheet A to explain that the amount on line 6 is the tax-free portion of the partial lump sum paid directly to you.

exemption is claimed, unless the monthly pension payments for any year were made for a lesser period than 12 months. In future years, verify that the lines 256 and 297 mentioned above are the same numbers on the relevant tax returns of those years.

4. When you make this claim for the first time, indicate in the space provided for details: « See attached explanation ». Then, attach to the tax return a **copy of Appendix A** and a **completed copy of Appendix B**. For other years, once a first claim has been registered, only the mention of the Canada-U.S. Tax Treaty need be written on this line but it always possible that the taxation authorities will ask you to answer further questions in order to determine your tax exemption. Keep a copy of Appendix B with your answers in case it is required. Each year, attach a **completed copy of Appendix C (“Worksheet A” together with the official letter showing the amount of your contributions)** to the tax return; but if you file electronically, keep a copy in case the tax authorities ask to see them.
5. When filing claims for previous years on Forms T1-ADJ E (federal) or TP-1.R-V (Québec provincial) as required, attach also a **copy of Appendix A** and a **completed copy of Appendix B**, with a **completed copy of Appendix C (“Worksheet A”)** for each year concerned. Only one mailing is necessary covering all the years for which retroactive claims are made and therefore only one copy of Appendices A and B to this letter will be required for the batch. Claims for adjusting prior years should be made in separate mailings from the tax return(s) for the current tax year, as these are processed by a separate division of the taxation authorities concerned.

Since the above instructions can lead to complex tax situations, it may be preferable to seek professional assistance if you do not feel comfortable in working through all the details. Although this entails a payment to the taxation professional that may be expensive, the payment could be well worth it if you avoid costly mistakes and benefit from the partial exemption of taxation. These instructions should be given to any tax professional you retain.

If a member is facing a deadline for tax filing and still has not ascertained the amount of the partial exemption, one can always file tax returns paying tax on the whole amount of the pension then request an adjustment once the deadline for filing is past and the details have been worked out.

SPECIAL SITUATIONS

Survivors of UN retirees receiving a survivor's pension

If your spouse died while on duty, then you should fill out the tax return with the accompanying questionnaire in Appendix B **as if you were the employee** and not your spouse. For example, this means the calculations on “Worksheet A” will be based on your age (not your spouse’s).

If your spouse died after the commencement of the pension, then you fill out the tax return with the accompanying questionnaire in Appendix B using the data related to your spouse – i.e., answer the questions **as if your spouse were answering**, even though he/she is no longer alive.

However, a surviving spouse will answer the question on US citizenship for one’s self. If not a US citizen, include all contributions (employer and employee) on “Worksheet A”, even if the deceased spouse was a US citizen.

Disability pension

If you retired on disability pension and your age is greater than the minimum retirement age at which you could have retired if you had not become disabled, then follow the instructions earlier covering the situation of most CAFICS members.

If, on the other hand, you are on a disability pension and your age is less than the minimum age at which you could have normally retired, then IRS Publication 575 specifies that you **MUST** report your disability pension as employment income on the tax return until you reach the minimum age at which you could have retired. Employment income from UN agencies is tax exempt in Canada and therefore deducted on line 256 of the federal return and on line 297 of the Québec return (for Québec residents).

The Certificate of Entitlement, issued annually to all beneficiaries by the UNJSPF, indicates if you are still on disability pension. If so, retain a copy of this, should you need to justify your status to the taxation authorities while still on disability pension.

Québec taxpayers

CAFICS members residing in Québec and required to file Québec tax returns should pay close attention to the special instructions contained at **Appendix D**.

Final tax return after death of last surviving beneficiary of a UN pension

As per IRS Publication 575, if the amounts you have claimed as being exempt from tax over the years has not exceeded the total contributions to the pension plan (as calculated on line 2 of “Worksheet A”) then your executor is allowed to claim as a miscellaneous deduction (on line 256 of the federal return and line 297 of the Québec return, where applicable) the remaining unrecovered amount of your contributions.

UN retirees receiving a PARTIAL LUMP SUM settlement while residing in Canada

If you received a partial lump sum from the UNJSPF near the time of retirement, you were residing in Canada and the partial lump sum was **not directly transferred** to a RRSP in Canada (or an IRA in the USA), then part of the lump sum is taxable and a portion is tax exempt. The tax exempt portion is calculated using the formula on the relevant page of IRS Publication 575 for a “*Distribution Before Annuity Starting Date From A Qualified Plan*”. Even if you actually received the payment shortly after or on the commencement of the pension (your retirement date), it is still considered (for taxation purposes) as being received just before the pension starting date⁶.

The formula (taken from IRS Publication 575) is as follows:

$$\text{AMOUNT RECEIVED} * (\text{COST OF CONTRACT} / \text{ACCOUNT BALANCE}) = \text{TAX-FREE PORTION}$$

The Cost of Contract is the total amount of contributions (the same figure that you indicate on line 2 of “Worksheet A” – i.e., your own contributions multiplied by 3, unless you are a US citizen.) The Account Balance is figured by taking whatever

6. It would appear that, if you retired on 01 January and received a lump sum paid on or after 01 January in connection with the start of retirement, the lump sum would (for taxation purposes) be considered to have been received the previous tax year. Otherwise, the lump sum would be considered (for taxation purposes) to have been received the same year as your pension starting date.

would have been a 1/3 lump sum payment (even if you received less than 1/3) and multiplying it by 3.

You add the total of the partial lump sum to the total of your monthly pension payments received for the tax year and report this as your total pension income from the UNSJPF. The non-taxable portion of the lump sum is added to the non-taxable portion of your monthly payments and taken as a tax treaty deduction on line 256 (federal) and line 297 (Québec if applicable) of the tax return(s). The tax-free portion of the partial lump sum must always be included on Line 6 of “Worksheet A” as an amount recovered previously.

If you **contribute yourself** the taxable portion of the partial lump sum into an RRSP after the total partial lump sum is deposited into your own bank account and before the contribution deadline for the tax year using your UNUSED RRSP DEDUCTION LIMIT (which you can find at the bottom of last year’s Notice of Assessment for the federal return), then you can take an RRSP contribution deduction for the taxable portion to avoid paying taxes on the taxable portion of the lump sum in the year it was received. However, make sure the amount that you deposit yourself to an RRSP does not exceed the total of your UNUSED RRSP DEDUCTION LIMIT.

Due to the way RRSP (and RRIF) plan withdrawals are taxed in Canada and the fact that the UNJSPF will NOT split up partial lump sum payments (with the tax-free portion going to you and the taxable portion as a direct transfer to an RRSP), it is preferable tax-wise to receive all of the partial lump sum payment yourself as a direct deposit to your own account, then contribute all or part of the taxable portion to an RRSP (prior to the contribution deadline for the tax year) using your UNUSED RRSP DEDUCTION LIMIT to reduce or eliminate taxes on the partial lump sum in the year they are received.

Taxation of FULL LUMP SUM SETTLEMENTS in Canada

(These settlements are not to be confused with partial lump sum settlements such as 1/3 lump sum settlements which are partially taxed exempt. See above for partial lump sum settlements up to 1/3 of the lump sum amount.)

A full lump sum settlement occurs when a UN retiree withdraws completely from the UN pension plan, receiving an “all cash” settlement with zero amounts of future monthly payments. This situation covers very few UN retirees.

Full lump sum settlements (like all payments from the UNJSPF) are covered by the Canada-USA Tax Treaty. US IRS Publication 575 covers how pension payments are taxed. In that publication, there is a section entitled “**Distribution on or after Annuity Starting Date**” which read as follows:

QUOTE⁷

Distribution in full discharge of contract. You may receive an amount on or after the annuity starting date that fully satisfies the payer's obligation under the contract. The amount may be a refund of what you paid for the contract or for the complete surrender, redemption, or maturity of the contract. Include the amount in gross income only to the extent that it exceeds the remaining cost of the contract.

UNQUOTE

Therefore, let us assume that a UN retiree receives a FULL LUMP SUM SETTLEMENT in the amount of US\$200,000 and her contributions to the UN pension plan were US\$300,000 consisting of employee contributions of US\$100,000 and employer contributions of US\$200,000.

Since the US\$200,000 is less than the total contributions of US\$300,000, there is nil (zero) amount to be included in gross income related to the payment. In other words, it is not to be listed on the tax return since the related amount of gross income is nil.

WORK SPACE FOR INDIVIDUAL UNITED NATIONS RETIREE:

AMOUNT OF FULL LUMP SUM SETTLEMENT	+	_____
Less, AMOUNT OF EMPLOYEE CONTRIBUTIONS	-	_____
Less, AMOUNT OF EMPLOYER CONTRIBUTIONS (Always 2 times the employee contributions)	-	_____
TOTAL	=	_____

7 This quote is taken from the 2016 edition of IRS Publication 575. Check later editions to verify if the text has been amended if your situation is that of a “full lump sum settlement”.

Include the above total in pension income only if greater than ZERO. The total amount greater than zero is fully taxable (excess of amount received over total amounts contributed).

UN retirees who immigrated to Canada after the pension starting date

If you received any payments from your UNJSPF pension prior to the first day you became a legal Canadian resident, then there is no tax to be paid to Canada for those payments (except in rare circumstances when you are considered a deemed Canadian resident).

However, if you received any portion of the UNJSPF pension tax-free or partially tax-free, then you will need to keep track of how much of the tax-free portion represented a return of your contributions – i.e., by comparing it to the amount you would have been allowed tax-free if you had been a U.S. resident before actually taking up Canadian residence.

For example, if you took a partial lump sum when you retired in Austria (where UN pensions are totally tax exempt), then you are considered to have received part of that lump sum tax-free (for purposes of completing “Worksheet A”) and part of each monthly payment tax-free while you were still in Austria, that part being the part you would have been allowed if you had been a U.S. resident even though you actually owe no tax in Canada for those amounts (since you were a resident of Austria and a non-resident of Canada when it was received).

This is of particular relevance to internationally-recruited staff who may have worked in Canada but were not considered Canadian residents (for taxation purposes) until they retired and took up Canadian residence sometime after retirement.

CAFICS members in this situation are advised to seek assistance from a professional tax preparer familiar with how to file tax returns in Canada for UN retirees.

UN retirees who worked in the United States for the UN

If you worked for the UN in the United States on a G-IV Visa which is routinely issued by the United States for internationally-recruited staff and for non-Americans residing in the United States who agree (as a condition of signing their UN contract) to give up their Green Card, you will need to attach a note to your tax return with text similar to the following:

QUOTE

- 1) I was a non-resident alien of the USA while employed at the UN;
- 2) My salary was exempt from US taxation and the employer contributions would also have been exempt had they been paid to me in cash, as explained in IRS Publication 519 (Chapter 10);
- 3) My time spent while I was a full-time UN employee in the United States did **not** count as being physically present in the US under US tax law as explained in IRS Publication 519 (Chapter 1); and
- 4) I am claiming ‘other country’ status as per the CRA guidelines on taxation of UN pensions in Canada an extract of which is at Attachment A of my tax return, since I was NOT a resident of Canada and was NOT a resident of the USA, being considered a non-resident alien of the USA not even physically present in the USA while employed at the UN.

UNQUOTE

Same Sex Marriages

Same sex marriages were recognized as valid by the Supreme Court of the United States in June 2015. If the UN recognizes a same sex marriage for purpose of granting a survivor’s pension, then you must use Table 2 of “Worksheet A” even though it might be to your benefit (tax-wise) to use Table 1. If you used Table 1 before June 2015 for earlier tax years (before the Supreme Court ruling) then you should seek the advice of a professional tax preparer or a tax lawyer knowledgeable in tax treaty matters. It may or may not be necessary to revise your tax returns for up to three prior years, 2012 through 2014, asking the tax authorities to forgive any interest and penalties.

Dual Nationals of the United States and Canada

Paragraph 1 of Article XXV of the Canada-USA Tax Treaty (Non-Discrimination), as amended by the 5th Protocol, reads as follows (emphasis added):

QUOTE

Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith that is **more burdensome** than the taxation and connected requirements to which nationals of that other State **in the same circumstances**, particularly with respect to taxation on worldwide income, are or may be subjected. This provision shall also apply to individuals who are not residents of one or both of the Contracting States.

UNQUOTE

Therefore, US citizens residing in Canada who are also Canadian citizens are, *de facto*, “in the same circumstances” and must not be taxed more burdensomely than Canadian citizens.

This was confirmed by the Consent to Judgment issued by a Deputy Attorney General of Canada in the case of John D Northcut (Appellant) and Her Majesty the Queen (Respondent), a copy of which is posted to the CAFICS web site or may be requested from the CAFICS office at ICAO Headquarters.

Therefore, dual nationals of Canada and the United States should complete “Worksheet A” as they would do so as a Canadian citizen. In answering question 7 of the Appendix B questionnaire, no check mark should be made to Yes or No; check the box for dual national with the comment “see attached note”.

Attach a note with the following wording to the questionnaire of Appendix B:

“For purpose of Canadian taxation, I wish to be treated as a Canadian citizen due to the wording of paragraph 1 of Article XXV of the Tax Treaty, as amended by the 5th Protocol. The correctness of this position was acknowledged by the Consent to Judgment (copy attached) issued by William F. PENTNEY, Deputy Attorney General of Canada. I realize the Judgment is not binding on taxpayers other than John NORTHCUT for the tax years in question. Nevertheless, my position is that the Judgment is a valid interpretation of the Treaty. Article XXV of the Treaty cannot be ignored.”

Then, attach directly after that note a copy of the Consent to Judgment obtained from the CAFICS web site or the CAFICS office.

IMPORTANT REMINDER

Members (or their tax preparers) who follow these instructions but have returns rejected with the reason that the partial tax exemption of UNJSPF payments, calculated using these instructions, is not allowed or is incorrect are requested to contact the CAFICS Office at ICAO as soon as any rejection notice is received. But first double-check that your calculation is correct.

Efforts will be made to assist such members in filing a Notice of Objection where warranted. Then if a Notice of Objection is also not ruled in favour of the taxpayer, an appeal can be made to the Tax Court of Canada using the Informal Procedure (free-of-charge) or the General Procedure (for which there is a cost).

APPENDIX A

Please note that the text contained in this Appendix is an extract from an official letter sent to John Northcut by CRA Headquarters.

This information may be shared with others as per the last paragraph of the letter.

This Appendix may be freely attached to your tax return or to any Request for Adjustment of a prior year's return

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To: whom it may concern

Below is a true extract of paragraphs sent in a letter from the Headquarters of the Canada Revenue Agency on 5 February 2009 to John D. Northcut, who is recipient of a UNJSPF pension. In the last paragraph extracted, the CRA gives permission for this information to be shared with other taxpayers in a similar situation.

START OF EXTRACTS

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To address the substance of your request, the following information is required to establish the non-taxable portion of a taxpayer's UNJSPF annuity payments:

- The taxpayer's date of birth
- An indication of whether the taxpayer had a spouse at the annuity starting date. If so:
 - Will the spouse be eligible for survivor benefits under the plan?
 - What is the spouse's DOB?
- The taxpayer's country of residence during the years that services were performed
 - If the taxpayer resided in a country other than Canada, was the remuneration exempt from taxation in the other country?
- An indication of whether the taxpayer was a citizen of the United States?
- Years of service (from xxxx to yyyy)
- The starting date of the annuity
- The name of the employer at the time that contributions were withheld
- The amount of employee contributions to the UNJSPF
- The amount of any transfers from the UNJSPF to an RRSP
- A completed copy of "Worksheet A" from IRS Publication 575
- The exchange rate used to include the pension income for each year

The cost or investment in the plan and the appropriate factor to be used on Publication 575 – "Worksheet A" is to be established for the first year in which the taxpayer receives the annuity. Once this amount is established, it will not vary from year to year. The factor which is found at the bottom of the worksheet only impacts the period over which the cost in the plan will be amortized. (For additional information, refer to the portion of IRS Publication 575 entitled "Taxation of Periodic Payments". This publication is currently available online at www.irs.gov/pub/irs-pdf/p575.pdf.)

Whether or not a taxpayer qualifies for an exemption under subparagraph 110(1)(f)(i) of the Income Tax Act can be determined as follows:

- Where a taxpayer (other than a U.S. citizen) was a resident of Canada throughout the period during which contributions were made to the plan, the calculation of the exempt portion of the annuity is generally straightforward: The cost or investment in the plan for the purpose of calculating the exempt portion of pension payments is the total of the employee and employer contributions..

- Where the taxpayer was a resident or a citizen of the U.S. at the time of the contributions, only the employee contributions are to be considered in the cost of the plan, because the employer contributions are already considered to have been excluded from the taxpayer's U.S. income in the year that the employment income was earned.
- For all other individuals, eligibility for exemption will depend on the tax treatment of the employment income in the country where they resided while they earned that income:
 1. If the employment income was not subject to tax in the third country, then the following additional test must be verified before establishing if there is a cost (exempt portion):
 - a) If the employee and employer contributions would not have been taxed in the third country or the United States if they had been paid in cash to the individual at the time the employment services were performed, then the employee and employer contributions are to be considered in the cost of the plan.
 - b) Otherwise, there will be no cost.
 2. If the compensation from the U.N. was subject to tax in the third country, then the employee contributions enter in the cost.

Note that in cases where the taxpayer has received a lump-sum payment from the UNJSPF on or before the annuity starting date and has transferred this lump sum to an RRSP, the cost (or investment in the plan) must be reduced proportionately.

The following information may also be of assistance:

- Individuals who participate in the UNJSPF receive statements from the pension plan indicating the amounts of their contributions in the pension fund (possibly covering the entire contribution period). The statements show only the employee contributions (the portion considered to be the cost in the plan for U.S. tax purposes), but the employer contributions can be easily determined as they are twice the employee's contributions.
- If taxpayers have not retained the relevant statements, this information can be obtained from the UNJSPF.

I trust that the above information addresses the questions which you had posed to us

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That said, my understanding from our conversation is that you are currently in contact with a number of other taxpayers who are in a similar position, and that you may elect to share portions of the information above with your colleagues. Given that my section is not normally in a position to respond to general enquiries from individual taxpayers, any questions that they might have are best directed either to the Agency's General Enquiries line, or where applicable, to the designated contact number provided in correspondence with the Agency.

APPENDIX B

Attach this Appendix to your tax return (the first year you are claiming exemption).

Attach also this Appendix to any Request for Adjustments you are making for a prior year's tax return.

Be sure to answer the questions that are required by the taxation authorities to establish the non-taxable portion of your pension.

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**NOTE FOR TAX RETURN THAT CONTAINS A CLAIM FOR PARTIAL
EXEMPTION OF TAXATION OF UNJSPF PAYMENTS**

The United Nations Joint Staff Pension Fund (UNJSPF) pension payments reported on my tax return arise in the United States. As such, they are partially exempt from taxation under Article XVIII of the Canada-US Tax Treaty.

This has been confirmed in a decision of the Competent Authority of Canada on the Tax Treaty between Canada and the United States and communicated to the Individual Returns and Payments Processing Directorate of the Headquarters, Canada Revenue Agency in 2008.

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7) Are you a citizen of the United States?

yes no

OR

Alternatively, are you a dual citizen of Canada and the United States?

yes – see attached note invoking Article XXV
of the Canada-USA Tax Treaty

8) Date periodic pension payments commenced.

Date _____

9) Was a lump sum withdrawn and transferred to an RRSP?

yes no

10) If so, how much (in U.S. dollars)?

USD _____

11) What percentage of the actuarial value of your pension was this amount (2 decimals)? (For example, if you took the maximum allowable lump sum, then the percentage is 1/3 or 33.34%)

12) What were the rates of exchange used to convert your periodic pension payments into Canadian dollars for the year(s) for which a claim for tax exemption is made? Use either the Bank of Canada official average exchange rate for the relevant year(s) which you can obtain from the Bank of Canada web site or a written justification (attached on an additional page) for an alternative rate.

Current Tax Year _____ Rate _____

Previous years (list only if making Requests for Adjustments)

Year	_____	Rate	_____
Year	_____	Rate	_____
Year	_____	Rate	_____
Year	_____	Rate	_____

(Attach additional page(s) if needed.)

**Page to be included on tax returns of dual nationals
of Canada and the United States:**

For purpose of Canadian taxation, I wish to be treated as a Canadian citizen due to the wording of paragraph 1 of Article XXV of the Tax Treaty, as amended by the 5th Protocol.

The correctness of this position was acknowledged by the Consent to Judgment (copy attached) issued by William F. PENTNEY, Deputy Attorney General of Canada.

I realize the Judgment is not binding on taxpayers other than John NORTHCUT for the tax years in question. Nevertheless, my position is that the Judgment is a valid interpretation of the Treaty.

Article XXV of the Treaty (on Non-discrimination) cannot be ignored.

Attach a copy of the Consent to Judgment.

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APPENDIX C

**Attach a completed copy of the “Worksheet A” (from IRS Publication 575)
to your tax return.**

**Attach a completed copy of the Worksheet to any Request for Adjustments
for prior year’s tax returns.**

**DO NOT FORGET TO INCLUDE A PHOTOCOPY OF THE OFFICIAL
LETTER FROM THE UNJSPF (or the last agency where you worked)
SHOWING THE AMOUNTS OF THE CONTRIBUTIONS TO THE
UNJSPF**

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1. Enter the total pension or annuity payments received this year. Also, add this amount to the total for Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a 1. _____

2. Enter your cost in the plan (contract) at the annuity starting date plus any death benefit exclusion.* See Cost (Investment in the Contract) earlier. 2. _____

Note: If your annuity starting date was before this year and you completed this worksheet last year, skip line 3 and enter the amount from line 4 of last year's worksheet on line 4 below (even if the amount of your pension or annuity has changed). Otherwise, go to line 3.

3. Enter the appropriate number from Table 1 below. But if your annuity starting date was after 1997 and the payments are for your life and that of your beneficiary, enter the appropriate number from Table 2 below 3. _____

4. Divide line 2 by line 3 4. _____

5. Multiply line 4 by the number of months for which this year's payments were made. If your annuity starting date was before 1987, enter this amount on line 8 below and skip lines 6, 7, 10, and 11. Otherwise go to line 6 5. _____

6. Enter any amounts previously recovered tax free in years after 1986. This is the amount shown on line 10 of your worksheet for last year 6. _____

7. Subtract line 6 from line 2 7. _____

8. Enter the smaller of line 5 or line 7. 8. _____

9. Taxable amount for year. Subtract line 8 from line 1. Enter the result, but not less than zero. Also, add this amount to the total for Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. Note: If your Form 1099-R shows a larger taxable amount, use the amount figured on this line instead. If you are a retired public safety officer, see Insurance Premiums for Retired Public Safety Officers earlier before entering an amount on your return. 9. _____

10. Was your annuity starting date before 1987?
 Yes. STOP. Do not complete the rest of this worksheet.
 No. Add lines 6 and 8. This is the amount you have recovered tax free through [insert here relevant tax year]. You will need this number if you need to fill out this worksheet next year 10. _____

11. Balance of cost to be recovered. Subtract line 10 from line 2. If zero, you will not have to complete this worksheet Next year. The payments you receive next year will generally be fully taxable 11. _____

* A death benefit exclusion (up to \$5 000) applied to certain benefits received by employees who died before August 21, 1996.

Table 1 for Line 3 above		
IF the age at annuity starting date was	AND your annuity starting date was —	
	BEFORE November 19, 1996, enter on line 3	AFTER November 18, 1996, enter on line 3
55 or under	300	360
56-60	260	310
61-65	240	260
66-70	170	210
71 or over	120	160

Table 2 for Line 3 above	
IF the combined ages at annuity starting date were	THEN enter on line 3
110 or under	410
111-120	360
121-130	310
131-140	260
141 or over	210

[This page is intentionally left blank.]

(Note for CAFICS members: replace this page in Appendix C filed with your tax return(s) by a copy of the official letter from the UNJSPF or the last agency where you worked showing the amounts of contributions to the UNJSPF.)

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APPENDIX D

Information for Québec Taxpayers

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TAXATION OF UNITED NATIONS MEDICAL PREMIUMS IN QUEBEC

1. This instruction covers how United Nations medical premiums paid for by former employers to retirees are required to be reported on the Québec tax return.¹
2. Normally, the United Nations organizations pay part of the premiums for medical insurance for their retirees. The retirees also pay directly themselves a certain share. However, few if any United Nations organizations issue RL-1 slips to retirees resident in Québec, showing the amount of the medical premiums paid by the United Nations in Box A, Box J and Box 242.
3. On the RL-1 slips (which should be issued to retirees but rarely are) the amount of the premiums paid by the employer in Box A is treated (for taxation purposes) as employment income. The same amount which should be reported also in Box J qualifies for the medical expense tax credit (as does the portion of the premium paid directly by the retiree). This same amount is also reported in Box 242 of the RL-1 slip for retired staff members.
4. Clarification had been obtained from *Revenu Québec* as to how the amounts paid for by the employer (but not reported on an RL-1 slip) should be reported on the Québec tax return.
5. For those CAFICS members who retired from ICAO, it should be recalled that the amount of the premiums paid for by ICAO (for the medical insurance for retirees) is exactly the same amount as the retiree pays.² In other words, ICAO pays 50% of the total premiums and the retiree pays 50%. CAFICS members who have retired from other organizations of the

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1. These premiums need not be reported on the federal tax return but the taxpayer may voluntarily include these premiums if it is to his/her advantage to do so in order to claim the premiums as a recognized medical expense (see CRA Publication IT-519R2, paragraph 65).
 2. If Revenu Québec questions the total amount paid for medical insurance, ICAO retirees can contact Human Resources to obtain a letter confirming the total amount paid (retiree plus ICAO portion) for the tax year concerned. Other retirees should contact their former agencies, if needed, for such a letter.

United Nations system and are uncertain of the amount the employer paid for medical insurance should contact that employer to find out the amounts.

6. CAFICS members should proceed as detailed below when preparing their Québec income tax returns. The effect of following this procedure is that members who have enough medical expenses to qualify for the medical expense tax credit will pay less tax, most members who have few medical expenses will see no change in their taxes paid and a very few members may see their taxes increase slightly should their gross income increase to a level that causes them not to qualify for certain other means-tested tax credits – i.e., those credits that do not apply to taxpayers with higher incomes. However, even if the taxpayer owes no extra tax the amounts should be reported, since you do not want the tax authorities to have reason to believe you are intentionally omitting income required to be reported as per the tax law from your tax return.
 - a. The amount of premiums paid by the United Nations organization for the retiree insurance should be reported on line 107³ as Employment Income (even though the retiree is no longer working and is receiving a United Nations pension), it being understood that the retiree should approach the United Nations organization concerned to ascertain the amount paid for medical insurance for the retiree, in the absence of receiving a RL-1.
 - b. This amount of premiums paid and reported on line 107 (or line 101 if you did receive an RL-1⁴), since it is paid by a United Nations organization and is considered as Employment Income. (*Nota bene*: it can no longer be deducted on line 297 as exempt income.)
 - c. This amount of premiums paid (together with the amount that the retiree paid himself/herself) can be included on line 381 as a Medical

3. In those rare cases where the retiree receives an RL-1 showing the amount of the medical insurance premium paid, the amount in Box A should be reported on line 101 and not on line 107.

4. Alternatively, taxpayers not receiving a RL-1 and using tax software, such as Turbo Tax Canada, may wish to enter a pseudo RL-1 taking care to enter the employer paid medical insurance premium in Box A, Box J and (importantly) in Box 242. By doing so, the tax software should report amounts only in appropriate places on the Québec tax return, calculating the correct amount of tax payable and medical expenses credit.

Expense provided other conditions for inclusion on line 381 (3% rule, 12 consecutive months rule, etc.) are met. Add these amounts to any other amounts for medical expenses. When you fill out any Québec Medical Expenses Worksheet, be sure to include the total amount of the premiums (employer paid plus employee paid) as one of your expenses.⁵

- d. Those members who use tax preparation software will most likely need to use special features in the software package to enter the employer-paid medical insurance premiums on the Québec return without causing them to be entered on the federal return. For example, if you use Turbo Tax Canada (the best-selling tax software in Canada), you can position the cursor on any line in the tax return, then touch F2 and proceed to override the figure entered (only on that return, not on both). Also, using Turbo Tax Canada, you can position the cursor on some fields and click on the right-button on the mouse to select a “Québec if different” option to enter a field. Check the instructions for the tax software you are using to find similar features.
- e. Bear in mind that, when certain overrides are entered or certain amounts are included, this results in some cases in you not being able to electronically file a return. If you get a message in the tax software saying that you do not qualify for electronic filing, it may be because you had to override certain data to show different amounts on the federal and Québec returns. In these cases, you will need to file your return manually.
- f. In any event, you should prepare a note explaining that you reported amounts for employer-paid medical insurance that also qualified as employment income from an United Nations agency and attach this note to your manual return – or in the event you are able to file electronically, be prepared to mail this note separately to the Québec tax authorities once your notice of acceptance of the electronic filing has been accepted or at such time when the Québec tax authorities ask for an explanation.

5. If you are a US citizen residing in Canada, receive US Social Security and there are US Medicare premiums deducted from your US Social Security be sure to include also the amount of the US Medicare premiums paid also as a Medical Expense on your tax returns.

7. CAFICS members who have very **low taxable incomes** (resulting in **very little or no tax to be paid**), substantial medical expenses and spouses with larger incomes should consider the following way to save tax payable on the Québec return of their spouse.
 - a. If you have medical insurance claims where a portion of the medical expense was paid by insurance, then report the amount paid by the insurance as income on line 154, enter a code of 16 on line 153 (or 66 if you already have other codes on that line) and prepare an explanatory note saying the amount on line 154 is **MEDICAL REIMBURSEMENT**.
 - b. Provided you have included the full amount reimbursed by the medical insurance company as income on your own return, then your spouse can claim the full amount of the medical expense for a tax credit on his/her own return, which will lower the amount of tax due, provided that your spouse otherwise qualifies to claim medical expenses.
 - c. If these deductions are questioned or you are asked for further explanations, please refer whoever asks to Québec publication IN-130-V entitled *Medical Expenses* which states that qualified expenses can be claimed provided “the expenses were not and will not be reimbursed to you, or their reimbursement is included in your income and is not deducted elsewhere in your income tax return”.
 - d. You may choose to do this on your Québec tax return⁶. Due to the employer-paid insurance premiums, Québec taxpayers will have higher medical expenses to report on the Québec return than on the federal return (where the employer-paid insurance premiums are not taxable and are not entered as income).
8. Leave a note with your will for your heirs to make them aware that when you are deceased, medical expenses for the past **two years prior to the date of your death** (not already claimed) can be claimed on your final tax return.

6. You should be cautious before attempting this same approach on the federal tax return. CRA Publication IT-519R2, paragraph 66, has an explanation of what is not allowed that is different than explanations given in IN-130-V, the Québec publication.

9. Québec taxpayers should note that in the GUIDE for preparing an Income Tax Return (TP-1.G-V) in the section explaining how to correct an oversight, the guide says that if, during the last ten years (including the latest tax year), you did not claim certain deductions and credits to which you were entitled, you can still do so by completing form TP-1.R-V, *Request for an Adjustment to an Income Tax Return*.

- END -