

NOMINEE AGREEMENTS REPORTING

SLF

Montreal, January 18, 2021

On May 17, 2019, the Quebec Department of Finance announced that new rules would be introduced concerning the mandatory disclosure of nominee agreements. The measures were contained in Quebec Bill-42 which received assent on September 24, 2020. The measures enacted apply to nominee agreements entered into on or after May 17, 2019, in the course of a transaction with tax consequences under the Taxation Act (Quebec), as well as such agreements entered into on or before May 16, 2020, that have continuing income tax consequences.

NOMINEE AGREEMENTS MUST BE DISCLOSED BY THE LATER OF:

- (i) The 90th day following the conclusion of the nominee agreement; and
- (ii) December 23, 2020, (for Nominee Agreements entered into on or prior to September 24, 2020, including Nominee Agreements entered in on or before May 16, 2020, that continue to have tax consequences).

Form TP-1079.PN, [Disclosure of a Nominee Agreement](#) was introduced for making the required disclosures. It must be filed separately with respect to each Nominee Agreement by registered mail. Disclosure by either party to the Nominee Agreement will be deemed to have been made by the other party as well.

THE INFORMATION RETURN MUST CONTAIN THE FOLLOWING INFORMATION:

- (a) the date the nominee agreement was entered into;
- (b) the identity of the parties to the nominee contract;
- (c) a complete description of the facts of the transaction that is sufficiently detailed to allow the Minister to analyze it and have a proper understanding of the tax consequences; and
- (d) such information as is required by the prescribed form.

The penalty for failing to make the required disclosure by the deadline is \$1,000, plus \$100 for every day after the deadline to a maximum amount of \$5,000.

In addition, the prescription period that would otherwise apply to a taxation year of a person participating in the nominee agreement or a member of a partnership that is a party to the agreement will be suspended for the transaction or series of transactions for which the nominee agreement is concluded. Suspension of the prescription period will be canceled when a late disclosure of a nominee agreement is made.

Should you require more information or need assistance with determining if the nominee agreement is required to be disclosed, or with completing the form, your **SLF adviser** will be pleased to assist you.

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