

**Approval Authority:** Board of Governors

**Last Approved:** April 20, 2021

**Administrative Responsibility:** President

**Next Review:** 2024-2025

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## **INTRODUCTION:**

- A. Section 153 ("section 153") of the Income Tax Act R.S.C., 1985, c. 1 (5th Supp.) (the "Act"), requires employers to withhold income tax from the salary and wages paid to their employees;
- B. Section 87 of the Indian Act R.S.C., 1985, c. I-5 (the "Indian Act"), states that the personal property of a status Indian situated on a reserve is exempt from taxation;
- C. In 1992 the Supreme Court of Canada considered connecting factors in determining if an Indian's income is personal property situated on a reserve;
- D. Canada Revenue Agency (the "CRA") introduced a set of guidelines ("Guideline 4") to advise employers of status Indian "Employees" of its administrative position on withholding;
- E. On March 1, 1994 the CRA wrote to NVIT stating that the income of its Employees appears to contain sufficient connecting factors as to be exempt from taxation under Guideline 4. CRA has continued to adopt this view. NVIT has maintained its practice of not withholding from the earnings of its Employees.

## **PURPOSE**

- 1. Guideline 4 is applicable to NVIT. This policy is designed to ensure that should Guideline 4 change, or the laws upon which it is based, change, NVIT will be apprised of those changes in order to minimize the risk that it is not in compliance with Section 153 of the Income Tax Act or alternatively, to minimize the time frame within which it is not in compliance.
- 2. The NVIT Board of Governors (the "Board") wishes to enact this Annual Compliance Policy (the "Policy") to review changes in the law and in Guideline 4 with respect to withholding income taxes from its Employees.

## **POLICY:**

- 1. On or before October 1 of each year, the Human Resources Advisor, or the person who is named to conduct the functions of the Human Resources Advisor (the "Human Resources Advisor"), will secure the opinion of legal counsel for NVIT as to whether or not there has been a change in the law with respect to withholding from the earnings of Employees during the year then ended, and if a change has occurred, then an opinion of the risks to NVIT of those changes.
- 2. On or before October 1 of each year, the Human Resources Advisor will review Guideline 4 and record any changes that have been made by CRA to Guideline 4 since the last review of Guideline 4.
- 3. The Human Resources Advisor will also complete or cause to be completed, the following:

- a. the Annual Review Checklist (the “Checklist”) located at Appendix A; and
  - b. a reporting of the results to the President on or before November 1 in each year.
- 4. This policy applies to the President and the Human Resources Advisor.
- 5. This policy is dictated by the laws of Canada and British Columbia governing taxation of Employees.

## APPENDIX A: Annual Review Checklist

DATE:

Please answer the following questions as they apply to NVIT in the table below.

Question	Yes, No, or other last year	Yes, No, or other last year	Notes or comments
Is any part of the NVIT campus now located on a reserve?			
<b>Makeup of Board Membership:</b> Total Number of Board Members: Number of status Indian Board Members:			
<b>Mind and Management Indicia:</b> Board Meetings: Total number of Board Meetings this past year: Total number of Board Meetings on reserve: Total number of Board Meetings off reserve:			
<b>Method of Board member selection:</b> Has there been any change since last year? If so, do the changes impact this requirement: <b>the social, cultural, educational, or economic development of Indians.</b>			
<b>Makeup of Student population:</b> Total student population: (FTE's) Full time: # Part-time: # Status Indians in student population: # Status Indians recording permanent residence on reserve: Other Indigenous students: # % of Status Indians ordinarily resident on reserve:			
<b>Make-up of the Employees:</b> Number of Employees (see definition): Number resident on Reserve: Number who are resident off reserve:			
<b>NVIT's Mission Statement:</b> Have there been changes since last year? If so, what changes?			
<b>Employment Activities:</b> Employee activities actually performed on reserve? (attach additional pages if necessary) Activities: Dates: Locations:			
<b>Mainstream Commercial Activity?</b> Bookstore: Other:			

NOTES: In order to qualify its Employees under Guideline 4 NVIT must continue to be an educational facility, dedicated to the social, cultural, educational, or economic development of Indians who for the most part, are ordinarily resident on reserve. (Guideline 4 – 2017)

Certificate: I, \_\_\_\_\_, President or Human Resources Advisor, confirm that I have reviewed the events and activities of NVIT's operations for the past year as set out in this Appendix A, and in so far as I am aware, there have been no material changes to the objectives or operations of NVIT that would lead me to believe that the Employees who are subject to this policy require NVIT to withhold for the payment of income tax under the *Income Tax Act*.

\_\_\_\_\_  
President or Human Resources Advisor

\_\_\_\_\_  
Date

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