



NO. IC07-1R1

DATE: August 18, 2017

SUBJECT: Taxpayer Relief Provisions

This information circular is only available electronically.

References to the **act** and the **regulations** refer to the Income Tax Act and the Income Tax Regulations.

The Canada Revenue Agency is referenced as the **CRA**.

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Application

¶ 1. This information circular cancels and replaces Information Circular IC07-1, Taxpayer Relief Provisions, dated May 31, 2007.

¶ 2. In this information circular, the term **taxpayer** includes an individual, an employer or a payer, a corporation, a partnership, a trust, an estate, and an organization. All of these entities can ask for relief from the minister of national revenue to ease the strict application of certain provisions because of not satisfying various rules and obligations under the act.

¶ 3. Unless otherwise specified, all legislative references in this information circular refer to the act.

¶ 4. In this information circular, the term **taxpayer relief provisions** refers to the legislation formerly known as the fairness provisions or fairness legislation when first included in the act.

Introduction

¶ 5. This information circular tells taxpayers about the authority the minister of national revenue has under the Income Tax Act to grant taxpayers relief with the legislative provisions described in ¶ 9. This circular also explains how a taxpayer asks for relief, including the proper information and documentation needed to support such a request, and outlines the administrative guidelines the CRA will follow in making a decision whether to grant or deny relief based on a taxpayer's situation.

¶ 6. These are only guidelines. They are not meant to be exhaustive and are not meant to restrict the spirit or intent of the legislation.

¶ 7. This information circular has five parts:

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|----------|--|
| Part I | Legislation |
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Part I

Legislation

¶ 8. The legislation gives the CRA the ability to administer the income tax system fairly and reasonably. The CRA does this by helping taxpayers resolve issues that come up through no fault of the taxpayers and by allowing for a common-sense approach in dealing with taxpayers who, because of personal misfortune or circumstances beyond their control, could not comply with a legal requirement for income tax purposes.

Taxpayer relief provisions

¶ 9. A taxpayer can ask for relief under the provisions of the act listed in this paragraph. After consideration of the relevant facts and circumstances of a taxpayer's situation, a delegated official of the CRA (see ¶ 17) will decide whether it is appropriate to do the following:

- a) waive or cancel penalties and interest under subsection 220(3.1)
- b) extend the filing-due date for making certain elections or grant permission to amend or revoke certain elections under subsection 220(3.2)
- c) authorize a refund of tax to an individual (other than a trust) or a graduated-rate estate under paragraph 164(1.5)(a), even though an income tax return is filed beyond the normal three-year period for such a refund
- d) authorize a reassessment or redetermination for an individual (other than a trust) or a graduated-rate estate beyond the three-year normal reassessment period under subsection 152(4.2), where the adjustment would result in a refund or a reduction in an amount payable

¶ 9.1. For the 2016 and later tax years, a testamentary trust is no longer eligible for relief under paragraph 164(1.5)(a) and subsection 152(4.2), unless the trust is a graduated-rate estate. For more information, see the section in Part IV "Elimination of relief for testamentary trusts, other than graduated-rate estates."

¶ 9.2. Subsection 152(4.2) includes a transitional provision where the minister of national revenue may authorize a reassessment or redetermination beyond the normal reassessment period for any taxpayer. This would be done to allow adjustments that would result in a refund or a reduction in an amount payable under Part I of the act. For more information, see the section in Part IV "Transitional relief for specific adjustment requests."

¶ 10. Paragraph 164(1.5)(a) and subsection 152(4.2) apply only to individuals (other than a trust), graduated-rate estates, and for certain tax years to testamentary trusts. Subsections 220(3.1), 220(3.2) and the transitional provision of subsection 152(4.2) apply to all taxpayers.

¶ 11. The minister of national revenue does not have to grant relief under the taxpayer relief provisions. Each request will be reviewed and decided on its own merit. If relief is denied or partly granted, the CRA will explain to the taxpayer the reasons for the decision.

Limitation period on using ministerial discretion and the deadline to apply for relief, other than interest relief

¶ 12. For first requests made or income tax returns filed on or after January 1, 2005, the minister of national revenue may grant relief for any tax year (or fiscal period, for a partnership) that ended within 10 years before the calendar year in which a taxpayer's request is made or a return is filed.

Note

A calendar year is a 12-month period that begins January 1 and ends on December 31.

¶ 13. Due to the limitation period, a taxpayer has 10 years from the end of a calendar year in which the tax year or fiscal period at issue ended to make a request to the CRA for relief or to file an income tax return. This limit applies to each of the legislative provisions described in ¶ 9, except for the authority to waive or cancel interest under subsection 220(3.1), in which case the 10-year limit is administered differently.

For more information, see the next section "Limitation period on using ministerial discretion and the deadline to apply for interest relief."

¶ 14. The 10-year limitation period rolls forward every January 1. For first requests made or income tax returns filed in the current year for a tax year (or fiscal period) that ended more than 10 years before the calendar year in which the request was made or return was filed, the minister of national revenue has no authority to:

- waive or cancel penalties
- accept a late, amended, or revoked income tax election
- issue a refund or make an adjustment beyond the normal three-year period

Examples

- A first request made or a return filed in 2017 must be for a taxpayer's 2007 or later tax year (or fiscal period) to be eligible for relief.
- A first request made or a return filed on or after January 1, 2018, for a taxpayer's 2007 or previous tax years (or fiscal periods) is not eligible for relief, since those tax years (or fiscal periods) are beyond the 10-year period. Only requests or returns for the 2008 and later tax years (or fiscal periods) are eligible for relief as of the January 1 date.
- The minister has no authority to grant relief for the 2008 tax year (or fiscal period), unless the taxpayer has made a first request or filed a return for that tax year (or fiscal period) by December 31, 2018.

Limitation period on using ministerial discretion and the deadline to apply for interest relief

¶ 15. For first requests made on or after June 2, 2011, the minister of national revenue may grant relief from the interest that accrued during the 10 calendar years before the year the request is made for any tax year (or fiscal period, for a partnership) in which the tax debt arose. This 10-year limit was adopted due to the Federal Court of Appeal decision in *Bozzer v Canada*, 2011 FCA 186, dated June 2, 2011.

Example

A taxpayer has a tax debt for the 2004 tax year and makes a first request for interest relief in 2017. The minister may grant relief from the interest that accrued during the 10-year period from January 1, 2007, to December 31, 2016. The interest that accrued before January 1, 2007, is not eligible for relief.

¶ 15.1. Due to the limitation period, a taxpayer has 10 years from the end of each calendar year in which the interest accrued to ask the CRA for relief. When a request is made, the CRA will consider the interest for the tax year involved, which accrued during the 10-year period, plus the interest that accrued during the calendar year the request was made.

¶ 15.2. The 10-year limitation period rolls forward every January 1. For first requests made in the current year, the minister has no authority to cancel interest that accrued during a calendar year that ended more than 10 years before the calendar year in which the request was made.

Examples

- A first request made in 2017 for any interest that accrued during the 2007 and later calendar years is eligible for relief. Any interest that accrued during the 2006 and previous calendar years is not eligible for relief.
- A first request made on or after January 1, 2018, for any interest that accrued during the 2007 and previous calendar years is not eligible for relief, since those calendar years are beyond the 10-year period. Only interest that accrued during the 2008 and later calendar years is eligible for relief as of the January 1 date.
- The minister has no authority to grant relief from the interest that accrued during the 2008 calendar year, unless the taxpayer has made a first request by December 31, 2018.

¶ 15.3. If the taxpayer's request involves both penalty and interest assessed for the same tax year, the penalty part of the request must be made no later than 10 years after the end of the calendar year in which the tax year ended to be eligible for relief of the penalty (see ¶ 13).

¶ 15.4. For first interest relief requests made before June 2, 2011, the redress process described in ¶s 103 and 105 will continue to consider the whole period that interest accrued for the tax year under review, as long as the first request satisfied the former 10-year time limit described in ¶ 13.

The 10-year limitation period described in ¶ 15 to consider only the interest that accrued within the last 10 calendar years does not apply to these requests.

¶ 15.5. A taxpayer may have made an interest relief request before June 2, 2011, which was late-filed more than 10 years after the end of the tax year under the former 10-year time limit described in ¶ 13. In that case, the minister of national revenue may grant relief from the interest that accrued within the last 10 calendar years for that tax year, effective from the year in which a new request is received from the taxpayer. The 10-year limitation period described in ¶ 15 will not be applied on a retroactive basis to the 2010 or prior year in which the original late-filed request was made.

Protective request for relief

¶ 16. The CRA may issue in a later year an assessment or reassessment for a tax year under audit. Or an objection or appeal filed by a taxpayer may not be resolved as the 10-year time limit approaches.

In either case, the taxpayer should send in a protective request for potential relief to make sure the request is made before the 10-year time limit expires. Any details and supporting documentation needed to complete the request can be sent later, after the audit or formal dispute process is done.

Who is authorized to make the decision?

¶ 17. Subsection 220(2.01) authorizes the minister of national revenue to delegate his/her powers and duties conferred in various provisions of the act to designated officials within the CRA. The officials delegated to use the minister's discretionary authority under the taxpayer relief provisions described in ¶ 9 are authorized through administrative instruments. Taxpayers can read these instruments at canada.ca/en/revenue-agency/services/tax/technical-information/delegation-powers-duties-functions.

¶ 18. The delegated officials are authorized to review a taxpayer's request for relief and to make a decision whether to grant, partly grant, or deny a request. It is a general administrative practice of the CRA for another CRA official to review a request and prepare a decision report for the delegated official's consideration, including a recommendation on whether or not granting relief is justified. The final decision and notifying the taxpayer in writing of the decision is the responsibility of the delegated official.

Part II

Guidelines for cancelling or waiving penalties and interest

¶ 19. The information in Part II deals with the minister of national revenue's authority to allow relief from the application of the penalty and interest provisions of the act. The minister may also provide relief from interest amounts, and in some cases penalty amounts, if he or she is satisfied

that a taxpayer cannot pay or suffers from financial hardship related to a debt owed to the CRA.

General

¶ 20. Subsection 220(3.1) gives the minister the authority to waive or cancel all or part of any penalty and interest otherwise payable by a taxpayer under the act. A request must be made within the applicable 10-year time limit (see ¶s 13 and 15.1).

¶ 21. Taxpayers should not use the minister's authority to waive or cancel penalties and interest as a way to arbitrarily reduce or settle their tax debt.

¶ 22. A **waiver** refers to penalties and interest otherwise payable by a taxpayer for which relief is granted by the CRA before these amounts are assessed or charged to the taxpayer. A **cancellation** refers to penalties and interest amounts that were assessed or charged to the taxpayer for which relief is granted by the CRA.

¶ 22.1. The CRA continues to charge compound daily interest at the prescribed rate on any amount owing when a taxpayer makes a request for relief. A taxpayer can avoid more interest charges by paying the amount owing in full. If relief is later granted, the CRA will pay refund interest on the penalty and interest amounts previously paid and cancelled (see ¶s 93 through 95).

Circumstances that may warrant relief from penalties and interest

¶ 23. The minister of national revenue may grant relief from penalties and interest where the following types of situations exist and justify a taxpayer's inability to satisfy a tax obligation or requirement:

- a) extraordinary circumstances
- b) actions of the CRA
- c) inability to pay or financial hardship

¶ 24. The legislation does not identify specific situations for which the minister has the authority to waive or cancel penalties and interest. The guidelines in this part of the information circular are not binding in law. They do not give the minister's delegate the authority to deny a request and exclude it from proper consideration simply because the taxpayer's circumstances do not meet a guideline described in Part II of this information circular. The minister's delegate may also grant relief even if a taxpayer's circumstances do not fall within the situations stated in ¶ 23.

Extraordinary circumstances

¶ 25. Penalties and interest may be waived or cancelled in whole or in part, if they result from circumstances beyond a taxpayer's control. Extraordinary circumstances that may have prevented a taxpayer from making a payment when due, filing a return on time, or otherwise complying with an obligation

under the act include, but are not limited to, the following examples:

- a) natural or human-made disasters, such as flood or fire
- b) civil disturbances or disruptions in services, such as a postal strike
- c) serious illness or accident
- d) serious emotional or mental distress, such as death in the immediate family

Actions of the CRA

¶ 26. Penalties and interest may also be waived or cancelled if they resulted mainly because of actions of the CRA, such as:

- a) processing delays that result in the taxpayer not being informed, within a reasonable time, that an amount was owing
- b) errors in material available to the public, which led taxpayers to file returns or make payments based on incorrect information
- c) incorrect information provided to a taxpayer
- d) errors in processing
- e) delays in providing information, such as when a taxpayer could not make the appropriate instalment or arrears payments because the necessary information was not available
- f) undue delays in resolving an objection or an appeal, or in completing an audit

Inability to pay or financial hardship

¶ 27. It may be appropriate, in circumstances where there is a confirmed inability to pay all amounts owing, to consider waiving or cancelling all or part of the interest, to enable taxpayers to pay their debt. For example:

- a) when collection has been suspended due to an inability to pay and substantial interest applies to the outstanding amount
- b) when a taxpayer's demonstrated ability to pay requires an extended payment arrangement, consideration may be given to cancelling all or part of the interest for the period from when payments start until the amounts owing are paid, as long as the agreed payments are made on time and compliance with the act is maintained
- c) when payment of the accumulated interest would cause a prolonged inability to provide basic necessities (financial hardship) such as food, medical care, transportation, or accommodation
- d) when a taxpayer cannot make a reasonable payment arrangement because the interest charges would absorb a significant portion of the payments, cancelling all or part of the interest for the period from when payments start until the amounts owing are paid may be considered, as long as the agreed payments are made on time and compliance with the act is maintained

¶ 28. Cancelling a penalty based on an inability to pay or financial hardship would not generally be considered, unless an extraordinary circumstance prevents compliance. See ¶ 25. However, there may be exceptional situations for which penalties are cancelled, in whole or in part. For example, when a business is experiencing extreme financial difficulty, and enforcement of such penalties would jeopardize the continuity of its operations, the jobs of the employees, and the welfare of the community as a whole, providing relief from the penalties may be considered.

¶ 28.1. The CRA will review in detail a taxpayer's financial situation to determine their ability to pay amounts owing and the interest charges that will continue to accrue. A financial review considers such things as:

- income and expenses
- assets and liabilities
- the ability to borrow funds and sell assets
- actions and efforts to pay amounts owing

The review may confirm a taxpayer's inability to pay and to what extent it may be appropriate to cancel current interest charges. For an individual taxpayer, the review will also consider the income, expenses, assets, and liabilities of household members (for example, spouse or common-law partner). All relevant factors that affect the individual taxpayer's benefits and obligations in connection with their financial and living requirements may be reviewed to determine the taxpayer's ability to pay a balance owing.

¶ 28.2. When relief is granted based on inability to pay or financial hardship, the CRA will cancel all or part of the interest that accrued until the date of the minister's delegate's decision. The taxpayer will have to send another request to cancel the interest that accrued after the date of the decision, if their financial situation has not improved.

Making a request

¶ 29. Taxpayers or their authorized representatives should fill out Form RC4288, Request for Taxpayer Relief – Cancel or Waive Penalties or Interest, to make a request. The taxpayer can also make a request by sending a letter to the CRA. Form RC4288 is available at canada.ca/cra-forms or by calling **1-800-959-8281**.

¶ 30. For requests made based on inability to pay or financial hardship, individual taxpayers should also fill out Form RC376, Taxpayer Relief Request – Statement of Income and Expenses and Assets and Liabilities for Individuals, to state their financial situation. Taxpayers can also provide a written statement (with the same information as Form RC376) of their financial situation, including supporting documentation. Attach the form or written statement to Form RC4288. Form RC376 is available at canada.ca/cra-forms or by calling **1-800-959-8281**.

¶ 30.1. For requests made based on inability to pay, business and corporate taxpayers need to state in writing, all income, expenses, assets, and liabilities of the business. Taxpayers should provide proper documentation to support the current financial condition of the business, such as a statement of earnings and balance sheet with a detailed description of assets and liabilities.

¶ 31. Taxpayers or their authorized representatives can send their completed requests and supporting documents:

- electronically, using “Submit documents” from any of the following:
 - My Account at canada.ca/my-cra-account
 - My Business Account at canada.ca/my-cra-business-account
 - Represent a Client at canada.ca/taxes-representatives
- by mail, to one of the designated CRA offices

To get the addresses of CRA offices, see the instruction section on Form RC4288, Request for Taxpayer Relief – Cancel or Waive Penalties or Interest, or go to canada.ca/taxpayer-relief and select “Cancel or waive penalties or interest.”

¶ 31.1. If a representative makes a request for a taxpayer, the representative must have authorization from the taxpayer before the CRA can communicate with them about the request. Unless previously provided to the CRA, the taxpayer can authorize the representative as follows:

- for individuals and trusts, through the “Authorize or manage representatives” online service in My Account at canada.ca/my-cra-account, in writing, or by sending a completed Form T1013, Authorizing or Cancelling a Representative
- for all business entities, through the “Authorize or manage representatives” online service in My Business Account at canada.ca/my-cra-business-account, in writing, or by sending a completed Form RC59, Business Consent

The forms are available at canada.ca/cra-forms or by calling **1-800-959-8281**.

¶ 32. Taxpayers should include all the circumstances (as described in ¶s 23 and 24) that they intend to rely on in their first request. It is important that taxpayers provide the CRA with a complete and accurate description of their circumstances to explain why their situation should merit relief. To support a request, taxpayers should provide all relevant information including the following, where applicable:

- a) the name, address, phone number, social insurance number, account number, trust account number, and business number, or other identification tax number assigned by the CRA to the taxpayer
- b) the tax year(s) or fiscal period(s) involved
- c) the facts and reasons to support the position that the interest or penalties were either mainly caused by factors

beyond the taxpayer’s control, or were because of actions of the CRA

- d) an explanation of how the circumstances affected the taxpayer’s ability to meet their tax obligations
- e) the facts and reasons that support the taxpayer’s inability to pay any interest or penalties
- f) any relevant documentation such as death certificates, doctor’s statements, or insurance statements to support the facts and reasons
- g) in cases involving financial hardship (or inability to pay), a meaningful payment arrangement which covers at least any tax and penalty, full financial disclosure that includes a statement of income and expenses, as well as a statement of assets and liabilities (see ¶s 30 and 30.1), and file any outstanding tax returns with the CRA
- h) supporting details of any incorrect information given by the CRA in the form of written answers, published information, or other documents
- i) where incorrect information was given verbally by the CRA, the taxpayer should give all possible details, such as date, time, name and agent identification number of the CRA official spoken to, and details of the conversation
- j) a complete history of events including what measures were taken (for example, payments and payment arrangements) and when they were taken to resolve the non-compliance

Factors used in arriving at the decision

¶ 33. Where circumstances beyond a taxpayer’s control, actions of the CRA, inability to pay, or financial hardship has prevented the taxpayer from complying with the act, the following factors will be considered when determining if the minister’s delegate will cancel or waive penalties and interest:

- a) whether the taxpayer has a history of compliance with tax obligations
- b) whether the taxpayer has knowingly allowed a balance to exist on which arrears interest has accrued
- c) whether the taxpayer has exercised a reasonable amount of care and has not been negligent or careless in conducting their affairs under the self-assessment system
- d) whether the taxpayer has acted quickly to remedy any delay or omission

Special consideration due to extraordinary events

¶ 34. When an extraordinary event (for example, natural disaster) has prevented many taxpayers from meeting their tax obligations, the minister may issue a news release to announce that special consideration will be given to providing relief, such as a waiver or cancellation of penalty and interest charges on late tax remittances or late filing of a return. In such cases, taxpayers need to ask to get relief. CRA news releases on extraordinary events that qualify for relief can be found at canada.ca/en/news/advanced-news-search/news-results.

Third-party actions

¶ 35. Taxpayers are generally considered responsible for errors made or delays caused by third parties acting for the taxpayers for income tax matters. It is a taxpayer's responsibility to make certain that their tax obligations are met despite the actions of a third party. However, there may be exceptional situations, where it may be appropriate to provide relief to taxpayers because of third-party errors or delays.

¶ 36. It may also be appropriate to consider granting relief from penalties and interest, in whole or in part, if an extraordinary circumstance beyond the control of a taxpayer's representative or actions of the CRA (as described in ¶s 25 and 26) have prevented the taxpayer from complying with an obligation or requirement under the act.

False statements or omissions penalty and third-party civil penalties

¶ 37. Relief from a false statements or omissions penalty assessed under the act can be considered under subsection 220(3.1). However, since the levy of these penalties indicates a degree of negligence and absence of care and diligence on the part of the taxpayer in knowingly making false statements or omissions in their tax affairs, the cancellation of a false statements or omissions penalty may be appropriate only in exceptional circumstances.

¶ 38. Relief from a third-party civil penalty assessed under the act can be considered under subsection 220(3.1). The levy of such a penalty indicates a degree of wilful, reckless, or wanton disregard of the law on the part of the third party in knowingly, or in circumstances amounting to culpable conduct, making or furnishing false statements or omissions in relation to the income tax matters of other taxpayers. The cancellation of a third-party civil penalty may be appropriate only in exceptional circumstances.

¶ 39. Given the nature of a false statement or omissions penalty or third-party civil penalty, and that, the CRA reviews the facts of a case before deciding to assess a penalty, it may be more appropriate for a taxpayer to dispute such a penalty by filing a notice of objection within the prescribed time limit. For more information on a taxpayer's right of objection and appeal, see Pamphlet P148, Resolving your dispute: Objection and appeal rights under the Income Tax Act, or go to canada.ca/cra-complaints-disputes.

Administrative charge on dishonoured payments

¶ 40. An administrative charge payable under the Financial Administration Act for a dishonoured payment made to the CRA cannot be cancelled under subsection 220(3.1) of the Income Tax Act. However, this charge may be waived or reduced under the Financial Administration Act and Interest and Administrative Charges Regulations if circumstances beyond the taxpayer's control, including an error made by the financial institution, resulted in the payment being dishonoured. Taxpayers or their authorized representatives

can make their requests in writing and send them to their tax centre or tax services office. To get the addresses of CRA offices, go to canada.ca/cra-contact.

Employment insurance premiums and Canada Pension Plan contributions

¶ 41. The 10-year limitation period (as described in ¶s 12 and 15) and the guidelines in Part II of this information circular apply to penalties and interest provided for in the Employment Insurance Act and the Canada Pension Plan legislation for the collection and payment of required premiums and contributions.

Voluntary Disclosures Program

¶ 42. The Voluntary Disclosures Program promotes compliance with Canada's tax law by encouraging taxpayers to voluntarily come forward and correct inaccurate or incomplete information, and to disclose information not reported to the CRA. Taxpayers who make a valid voluntary disclosure avoid being penalized or prosecuted, but they have to pay the taxes owing and arrears interest. For more information, see Information Circular IC00-1R5, Voluntary Disclosures Program, or go to canada.ca/taxes-voluntary-disclosures.

¶ 43. Arrears interest and any penalties payable on an income tax disclosure may be cancelled or waived under subsection 220(3.1) of the act. For more information, see Part II "Guidelines for cancelling or waiving penalties and interest."

Taxpayer relief provisions in other legislation

¶ 44. There are taxpayer relief provisions in other legislation administered by the CRA. Those provisions give the minister of national revenue the authority to allow relief from interest and certain penalties payable by a person for not complying with various obligations regarding the collection and payment of goods and services tax/harmonized sales tax (GST/HST), excise tax, excise duty, charges, and levies.

¶ 44.1. A person can ask the minister for relief from interest and certain penalties payable for GST/HST under the following provisions of the Excise Tax Act:

- a) subsection 281.1(1) gives the minister the authority to waive or cancel interest payable under section 280
- b) subsection 281.1(2) gives the minister the authority to waive or cancel the
 - i) penalty payable under former section 280 for a failure to remit or pay an amount before April 1, 2007
 - ii) penalty payable under section 280.1 for a failure to file a return
 - iii) penalty payable under section 280.11 for a failure to file by electronic transmission
 - iv) penalty payable under section 284.01 for a failure to accurately report information

- c) subsection 284.1(3) gives the minister the authority to waive or cancel the
- i) penalty payable by a reporting institution under subsection 284.1(1) for a failure to report an actual amount
 - ii) penalty payable by a reporting institution under subsection 284.1(2) for a failure to provide reasonable estimates

For more information on how to ask for relief and the administrative guidelines the CRA follows to decide whether to grant or deny relief based on a person's situation, see GST/HST Memoranda Series, Chapter 16.3, Cancellation or Waiver of Penalties and/or Interest.

¶ 44.2. Subsection 88(1) of the Excise Tax Act gives the minister of national revenue the authority to waive or cancel any penalty and interest payable under Part I to VII (non-GST/HST provisions).

¶ 44.3. A person can ask the minister for relief from interest and certain penalties payable related to excise duty, charges, or levies under the provisions of the following legislation:

- a) subsection 30(1) of the Air Travellers Security Charge Act gives the minister the authority to waive or reduce interest payable under section 27
- b) subsection 55(1) of the Air Travellers Security Charge Act gives the minister the authority to waive or cancel the penalty payable under section 53 for a failure to file a return and the penalty payable under former subsection 53(1) for a failure to pay an amount before April 1, 2007
- c) section 173 of the Excise Act, 2001 gives the minister the authority to waive or reduce any interest payable under section 170
- d) section 255.1 of the Excise Act, 2001 gives the minister the authority to waive or reduce the penalty payable under section 251.1 for a failure to file a return
- e) subsection 37(1) of the Softwood Lumber Products Export Charge Act, 2006 gives the minister the authority to waive or cancel interest payable under section 34 and the penalty payable under section 64 for a failure to file a return

For more information on how to ask for relief and the administrative guidelines the CRA follows to decide whether to grant or deny relief based on a person's situation under the Excise Act, 2001, see Excise Duty Memorandum, Chapter 10.2.1, Cancellation or Waiver of Penalties and/or Interest. The administrative guidelines also apply to requests made under the taxpayer relief provisions of the Air Travellers Security Charge Act and the Softwood Lumber Products Export Charge Act, 2006.

Note

The excise duty memorandum will be available later.

¶ 44.4. Each of the taxpayer relief provisions (other than ¶ 44.1 c)) provides a 10-year limitation period on the minister's authority to grant relief from penalties (see ¶ 12) and interest (see ¶ 15) payable for the reporting period.

¶ 44.5. For the penalties described in ¶s 44.1 b) i), 44.2, and 44.3 b), the 10-year limitation period described in ¶ 15 applies, since these penalties accrue the same way as interest. There is no time limit to ask for relief from the penalties described in ¶ 44.1 c).

Selected listed financial institutions for Quebec sales tax purposes

¶ 44.6. For selected listed financial institutions (SLFIs) carrying on business in Quebec, the CRA collects Quebec sales tax (QST) under the Act respecting the Québec sales tax. Also for these SLFIs, the CRA collects goods and services tax/harmonized sales tax (GST/HST) under the Excise Tax Act. This is effective for reporting periods ending on or after January 1, 2013.

For the minister of revenue of Quebec, the minister of national revenue is responsible for using discretion under section 94.1 of the Tax Administration Act to waive or cancel interest, penalties, or charges payable by a SLFI for their QST obligations. There is a 10-year limitation period on the minister's authority to grant relief. For more information on this relief provision and the guidelines used to review requests for relief, see Revenu Québec's Interpretation Bulletin LAF.94.1-1/R7, Waiver or Cancellation of Interest, Penalties or Charges, at revenuquebec.ca.

¶ 44.7. SLFIs or their authorized representatives should fill out Form RC7288, Selected Listed Financial Institution Request for Taxpayer Relief – Cancel or Waive Penalties or Interest Related to the GST/HST or the QST, or Charges Related to the QST, to make their request for relief. The request can also be made by sending a letter to the CRA. A SLFI or their authorized representative can send a completed request and supporting documentation:

- electronically, using "Submit documents" from either of the following:
 - My Business Account
at canada.ca/my-cra-business-account
 - Represent a Client
at canada.ca/taxes-representatives
- by mail, to the following address:

Shawinigan National Verification and Collections Centres
Canada Revenue Agency
4695 Shawinigan-Sud Boulevard
Shawinigan QC G9P 5H9

Form RC7288 is available at canada.ca/cra-forms or by calling **1-800-959-8281**.

Note

Form RC7288 will be available later. SLFIs can make their request by sending a letter to the CRA.

Part III

Guidelines for accepting late, amended, or revoked elections

¶ 45. The act and the regulations contain many elections that give taxpayers the opportunity to decide on an alternative tax treatment for income tax purposes. In most cases, elections do not have rules that permit a taxpayer to file an election after the prescribed time for making that election is past or that let a taxpayer modify or cancel an original election filed on time. The information in Part III deals with the minister of national revenue's authority to give a taxpayer the benefit of certain elections, even though the due date has passed, and to let a taxpayer modify or cancel certain elections.

General

¶ 46. Subsection 220(3.2) gives the minister of national revenue the authority to extend the statutory time for filing certain elections or to permit certain elections to be amended or revoked. A request to late-file, amend or revoke an election must be made within the 10-year time limit described in ¶ 13.

Prescribed elections

¶ 47. A request by a taxpayer to have a late or amended election accepted or to revoke an election is limited to the provisions of the act and the regulations, which are listed in section 600 of the regulations. For the list of prescribed elections for the purposes of subsection 220(3.2), see Appendix A.

¶ 48. A late, amended, or revoked election must be correct in law based on the relevant legislation for the tax year to which the election relates.

¶ 49. When accepted by the CRA, a late or amended election will be considered to have been made when it was required to be made. For amended and revoked elections, the earlier election will be cancelled. The CRA will reassess a return for a tax year to accept a late, amended or revoked election, even if the normal reassessment period has passed (that is, for statute-barred years).

¶ 50. Any assessments or reassessments resulting from the CRA's acceptance of a request is subject to the general provisions for arrears interest charged on a balance.

Penalty for late, amended, or revoked elections

¶ 51. A taxpayer is liable to a penalty if the CRA accepts a late, amended, or revoked election. The penalty, calculated under subsection 220(3.5), is whichever amount is less:

- \$8,000
- \$100 for each complete month from the election's original due date to the date the application is made in a form satisfactory to the CRA

¶ 52. The date on which the request (application) is made in a satisfactory form to the CRA is when the CRA has been

provided with complete and accurate information for the election under review. To minimize the amount of penalty, the taxpayer should follow the application procedures described in ¶s 58 through 63.

¶ 53. It is CRA policy not to accept late, amended, or revoked elections, or to process the necessary adjustments to give an election effect, unless the amount of the penalty described in ¶ 51 is paid. Taxpayers should send a payment for the penalty amount with their request. The CRA will determine and assess any unpaid balance of the penalty, which the taxpayer must pay at once. Interest will be charged on the unpaid balance of the penalty from the date of the notice of assessment to the date of payment.

¶ 54. The penalty described in ¶ 51 is subject to the provisions of subsection 220(3.1). For details on the cancellation or waiver of this penalty, see Part II "Guidelines for cancelling or waiving penalties and interest."

Deemed prescribed elections

¶ 55. The rules and guidelines under this part also apply to the following designations and allocations that are considered prescribed elections, under subsection 220(3.21):

- a) Paragraph 80(2)(i) of the act lets a taxpayer designate the order in which commercial debt obligations settled at the same time are to be applied under the debt forgiveness rules.

File: Form T2153, Designations Under Paragraph 80(2)(i) When Two or More Commercial Obligations Are Settled at the Same Time

- b) Subsections 80(5) to 80(11) let a taxpayer who has designated a forgiven amount to apply any remaining part of that amount in certain circumstances.

File: Form T2154, Designation of Forgiven Amount by the Debtor – Subsections 80(5) to 80(11)

- c) Subsection 80.03(7) lets a taxpayer designate a capital gain that would otherwise arise under subsection 80.03(2) as a forgiven amount for the purpose of the debt forgiveness rules.

File: Form T2155, Alternative Treatment of Capital Gains Arising Under Section 80.03 on Settlement of Debt

- d) Section 54, under the definition of principal residence, lets an individual (not a trust) or a personal trust designate a property that qualifies as the taxpayer's principal residence for each tax year during the period of ownership. The designation would reduce or eliminate the capital gain on the disposition of the taxpayer's principal residence.

File the following that applies:

Schedule 3, Capital Gains (or Losses) of the Income Tax and Benefit Return, **if** the

property was the individual's or deceased individual's principal residence for every year it was owned

Form T2091(IND), Designation of a Property as a Principal Residence by an Individual (Other Than a Personal Trust), and Schedule 3, Capital Gains (or Losses) of the Income Tax and Benefit Return, **if** the property was not the individual's principal residence every year it was owned

Form T1255, Designation of a Property as a Principal Residence by the Legal Representative of a Deceased Individual, and Schedule 3, Capital Gains (or Losses) of the Income Tax and Benefit Return, **if** the property was not the deceased individual's principal residence every year it was owned

Form T1079, Designation of a Property as a Principal Residence by a Personal Trust, **if** the property was the trust's principal residence for all or part of the years it was owned

- e) Subsection 132.11(6) lets a mutual fund trust, as well as any electing trust with a December 15 year-end, choose an amount designated by it for a tax year to be added in calculating its income for the year.

File: Signed letter

Acceptance of a late, amended, or revoked election

¶ 56. Circumstances where a request may be accepted include:

- There have been tax consequences not intended by the taxpayer, and there is evidence that the taxpayer took reasonable steps to comply with the law. This could include, for example, a situation where the taxpayer got a bona fide valuation for a property, but the CRA determined that the valuation was incorrect
- The election was not made on time due to circumstances that were beyond the taxpayer's control. Such extraordinary circumstances could include natural or human-made disasters, such as flood or fire; civil disturbances; disruptions in postal or other services; a serious illness or accident; or serious emotional or mental distress, such as death in the immediate family
- The taxpayer acted on incorrect information given by the CRA
- The request results from a mechanical error. This could include using the net book value amount when the taxpayer meant to use the undepreciated capital cost
- The later accounting of the transactions by all parties is as if the election was made
- The taxpayer can show that they did not know about the election provision, even though they took reasonable care to comply with the law and took remedial action as soon as possible

Denial of a late, amended, or revoked election

¶ 57. A request will not be accepted in the following cases:

- It is reasonable to conclude that the taxpayer made the request for retroactive tax planning purposes. This could include taking advantage of changes to the law enacted after the due date of the election
- Adequate records do not exist
- It is reasonable to conclude that the taxpayer had to make the request because he or she was negligent or careless to comply with the law

Making a request

¶ 58. Taxpayers or their authorized representatives have to make their requests in writing and can send them, along with any supporting documentation:

- electronically, using "Submit documents" from any of the following:
 - My Account at **canada.ca/my-cra-account**
 - My Business Account at **canada.ca/my-cra-business-account**
 - Represent a Client at **canada.ca/taxes-representatives**
- by mail, to their tax centre

To get the addresses of CRA offices, go to **canada.ca/cra-contact**.

¶ 58.1. A representative making a request for a taxpayer must have authorization from the taxpayer (see ¶ 31.1).

¶ 59. To support a request, taxpayers should provide all relevant information including the following, where applicable:

- the name, address, phone number, social insurance number, trust account number, and business number, or other identification tax number assigned by the CRA to the taxpayer
- the tax year(s) or fiscal period(s) involved
- the dates and details of the transactions
- the date and details of the original election, including an explanation of why the taxpayer is asking to have an election amended or revoked
- details of a late election, and an explanation of why it is late

¶ 60. For a request to accept a late or amended election, the election needs to be made in the method required by the provisions of the act or the regulations (for example, filing the election using the prescribed form or in a prescribed way).

¶ 61. For all parties involved, the request should briefly describe the income tax implications of the request being accepted or denied.

¶ 62. If accepting the request involves changes to continuing tax balances or pools, taxpayers should send the CRA appropriate revised schedules to show the changes. This could

include capital cost allowance schedules, reserve account schedules, and Canadian exploration or development expense account schedules.

¶ 63. If a request involves more than one taxpayer, an agreement to the changes requested, signed by all parties, should be included with the request.

Part IV

Guidelines for refunds or reduction in amounts payable beyond the normal three-year period

¶ 64. The act sets a three-year limitation period from the end of the tax year of an individual (other than a trust) and a graduated-rate estate to file an income tax return to claim a tax refund. For the same taxpayers, there is a three-year limitation period from the date of the original notice of assessment to ask for an adjustment to an assessment issued for a previous tax year. The information in Part IV deals with the minister of national revenue's authority to relieve an individual (other than a trust) and a graduated-rate estate from the limitation period. That information also addresses the circumstances for which the minister can accept late requests to give the individual or graduated-rate estate a refund or reduction in tax payable.

General

¶ 65. The relief provided under paragraph 164(1.5)(a) and subsection 152(4.2) applies only to individuals (other than trusts) and graduated-rate estates. Testamentary trusts can still benefit from these provisions for tax years that ended on or before December 31, 2015 (see ¶s 70.2 through 70.5).

Refund entitlement

¶ 66. Subsection 164(1) prevents the CRA from refunding an overpayment of tax, unless:

- a) an income tax return was filed for a tax year no later than three years after the end of that year
- b) the CRA received a request for a refund no later than three years from the date of the original notice of assessment. Also, the related income tax return was filed no later than three years from the end of the tax year. This is the normal reassessment period

Authority to allow a statute-barred refund

¶ 67. Paragraph 164(1.5)(a) gives the minister of national revenue the authority to refund to an individual or a graduated-rate estate all or any part of an overpayment of tax for a tax year, even if the tax return was filed more than three years after the end of the tax year. The return must be filed within the 10-year time limit described in ¶ 13.

Reassessment or redetermination

¶ 68. Subsection 152(4) generally prevents the CRA from reassessing an income tax return for a tax year that is more

than three years after the date of the original notice of assessment or of an original notification that no tax was payable for the year. When the normal three-year reassessment period for a tax year ends, the return is considered statute-barred. For more information, see Information Circular IC75-7R3, Reassessment of a Return of Income.

Authority to refund or reduce tax payable for a statute-barred return

¶ 69. Subsection 152(4.2) gives the minister of national revenue the authority to make a reassessment or a redetermination beyond the normal reassessment period for a statute-barred tax year, when requested by an individual or a graduated-rate estate, in order to determine a refund or to reduce tax payable. The request must be made within the 10-year time limit described in ¶ 13.

¶ 70. An individual or graduated-rate estate can ask the CRA to redetermine certain amounts that are considered to be either payments for income tax or overpayment of income tax. Paragraph 152(4.2)(b) refers to the following amounts for which a redetermination could be issued:

- a) refundable Quebec abatement for income earned in Quebec by an individual resident of Quebec under subsection 120(2)
- b) refundable First Nations abatement for individuals who are subject to income tax legislation of certain First Nations under subsection 120(2.2)
- c) goods and services tax/harmonized sales tax (GST/HST) credit available to eligible individuals under subsection 122.5(3)
- d) refundable medical expense supplement available to eligible individuals under subsection 122.51(2)
- e) refundable working income tax benefit available to eligible individuals under subsection 122.7(2)
- f) refundable working income tax benefit disability supplement available to eligible individuals under subsection 122.7(3)
- g) refundable children's fitness tax credit available to eligible individuals under subsection 122.8(2) (only for the 2015 and 2016 tax years)
- h) refundable children's fitness tax credit available to eligible individuals under subsection 122.8(3) for children eligible for the disability tax credit (only for the 2015 and 2016 tax years)
- i) refundable teacher and early childhood educator school supply tax credit available to eligible individuals under subsection 122.9(2)
- j) refundable investment tax credit available to taxpayers under subsection 127.1(1)
- k) the tax credit that a beneficiary of a qualifying environmental trust can claim under subsection 127.41(3) for the Part XII.4 tax paid by the trust
- l) the tax credit that certain beneficiaries can claim under subsection 210.2(3) for the Part XII.2 tax paid by a trust

- m) the tax credit a Canadian partnership flows through to its partners for the Part XII.2 tax paid by a trust under subsection 210.2(4)
- n) Canada child tax benefit payments available to eligible individuals for qualified dependants under former subsection 122.61(1) before July 1, 2016
- o) Canada child benefit payments available to eligible individuals for qualified dependants under subsection 122.61(1) as of July 1, 2016

¶ 70.1. Subsection 118(2.2) includes a transitional provision that allows an individual to ask for a refund or reduction in tax payable for a previous tax year, if they incurred medical expenses for the use of certain reproductive technologies that are eligible for the medical expense tax credit. These medical expenses may also be eligible for the refundable medical expense supplement (see ¶ 70(d)). The request must be made within the 10-year time limit described in ¶ 13.

Elimination of relief for testamentary trusts, other than graduated-rate estates

¶ 70.2. For the 2016 and later tax years, relief under paragraph 164(1.5)(a) and subsection 152(4.2) applies to a testamentary trust, only if it qualifies and designates itself as a graduated-rate estate in its income tax return for its first tax year that ends after 2015.

¶ 70.3. As of January 1, 2016, a testamentary trust that is not a graduated-rate estate can no longer file an income tax return or ask for an adjustment for a refund or reduction in tax payable after the normal three-year limitation period has expired for the 2016 and later tax years. However, a testamentary trust can:

- file a return or ask for an adjustment for the 2015 and previous tax years that are beyond the normal three-year period but within the 10-year limitation period
- ask for an adjustment according to the transitional provision of subsection 152(4.2) (see ¶s 70.6 through 70.9)

A testamentary trust must file the return or make the adjustment request for the applicable tax year within the 10-year time limit described in ¶ 13.

¶ 70.4. A graduated-rate estate can only exist for up to 36 months after the death of the individual. Therefore, a return or adjustment request must relate to a tax year that ends after December 31, 2015, but before the end of the 36-month period.

Examples

- On March 31, 2016, Mr. Jones died and his estate is a testamentary trust with a December 31 tax year-end. For the first tax year that ended after 2015 (on December 31, 2016), the legal representative decided to designate the estate as a graduated-rate estate, which will stop being a graduated-rate estate on April 1, 2019.

As a graduated-rate estate, the estate can ask for relief for a tax year that ends in 2016, 2017, 2018, or 2019 (for the first period January 1, 2019, to March 31, 2019).

The estate cannot ask for relief for the second tax year that ends in 2019 (for the period April 1, 2019, to December 31, 2019) or later tax years, because the estate is a testamentary trust, and it is no longer a graduated-rate estate as of April 1, 2019.

- On January 31, 2014, Mrs. Smith died and her estate is a testamentary trust with a January 31 tax year-end. For the first tax year that ended after 2015 (that is, January 31, 2016), the legal representative decided to designate the estate as a graduated-rate estate, which stopped being a graduated-rate estate on February 1, 2017.

As a graduated-rate estate, the estate can ask for relief for a tax year that ended in 2016 or 2017.

The estate cannot ask for relief for the second tax year that ends in 2017 (for the period February 1, 2017, to December 31, 2017) or later tax years, because the estate is a testamentary trust, and it is no longer a graduated-rate estate as of February 1, 2017.

As a testamentary trust, the estate can ask for relief for the tax year that ended in 2015.

- On June 30, 2012, Mr. Jacobs died and his estate is a testamentary trust with a December 31 tax year-end. The estate could not designate itself as a graduated-rate estate, because the 36-month period after the individual's death ended before December 31, 2015 (that is, July 1, 2015).

As a testamentary trust, the estate cannot ask for relief for a tax year that ends in 2016 or later. The estate can ask for relief for a tax year that ended in 2012 to 2015.

¶ 70.5. For the 2016 and later tax years, a testamentary trust that elects to be a qualified disability trust is not eligible for relief under paragraph 164(1.5)(a) or subsection 152(4.2). As a testamentary trust, the estate can ask for relief for the tax years that ended on or before December 31, 2015 (see ¶ 70.3).

Transitional relief for specific adjustment requests

¶ 70.6. Subsection 152(4.2) can apply to other taxpayers (not only individuals and graduated-rate estates) who can benefit from certain legislative changes that apply to tax years that, when passed into law in 2013, were beyond the normal reassessment period, and in some cases beyond the 10-year limitation period of subsection 152(4.2).

¶ 70.7. Section 367 of Bill C-48, Technical Tax Amendments Act, 2012 provides a transitional provision for subsection 152(4.2). With that provision, the minister of national revenue can reassess or redetermine beyond the normal reassessment period. The minister can do this for any taxpayer to determine a refund or to reduce Part I tax payable for statute-barred tax years that end before the day the Technical Tax Amendments Act became law on June 26, 2013. This is the case only if the requested adjustment is to apply an income tax amendment from Part 5 of the Technical

Tax Amendments Act. Taxpayers can see the legislation at parl.gc.ca/LegisInfo.

¶ 70.8. A corporate taxpayer or a trust (including a testamentary trust) can ask for a reassessment or redetermination only if the requested adjustment relates to a legislative amendment included in Part 5 of the Technical Tax Amendments Act, 2012 for a statute-barred tax year that ended before June 26, 2013.

For an individual, the statute-barred tax year may be beyond the 10-year limitation period (see ¶ 12) for subsection 152(4.2) to apply. If so, a reassessment or redetermination can only be made if that statute-barred tax year ended before June 26, 2013, and the requested adjustment relates to a legislative amendment included in Part 5 of the Technical Tax Amendments Act, 2012.

¶ 70.9. There is no time limit for a taxpayer to make a request to the CRA for an adjustment under the transitional provision. The guidelines in Part IV and Part V of this information circular apply to these requests, as necessary.

Acceptance of a refund or adjustment request

¶ 71. The CRA may issue a refund or reduce the amount owed if it is satisfied that such a refund or reduction would have been made if both of the following apply:

- the return or request was filed or made on time
- the necessary assessment is correct in law and has not already been allowed

¶ 71.1. In determining whether a refund or reduction in tax payable would have been made if the return or request was filed or made on time, the CRA will consider the law in effect for the tax year. If an assessing policy changes because of a court decision, the CRA will not apply the decision on a retroactive basis to reassess a previous-year return. This is because the CRA would not be satisfied that the taxpayer would have received a refund or reduction in tax payable had the adjustment been made on time for the return.

¶ 72. Individuals and graduated-rate estates can make a request if they were not aware of, or missed, claiming a deduction or a non-refundable tax credit that was available for the year, such as child care expenses or the amount for an eligible dependant. Individuals can also ask for refunds or reductions of amounts owing for refundable tax credits such as provincial tax credits that have not been claimed. Also, payroll deductions may have resulted in an overpayment of taxes for which a refund can be requested.

¶ 73. The purpose of asking for an adjustment under subsection 152(4.2) is not to dispute or disagree on the correctness or validity of a previous assessment. Taxpayers should not use the minister of national revenue's authority to allow an adjustment to amounts for a statute-barred tax year as a way to have technical matters reconsidered. This includes a matter reassessed under an audit and the individual or

graduated-rate estate chose not to challenge the matter through the normal objection/appeals processes or where the matter was addressed through an objection or appeal.

If the time limit to dispute an assessment has not expired, a taxpayer should file a notice of objection. For more information on a taxpayer's right of objection and appeal, see Pamphlet P148, *Resolving your dispute: Objection and appeal rights under the Income Tax Act*, or go to canada.ca/cra-complaints-disputes.

¶ 73.1. An adjustment request to raise new arguments or renew discussions on a tax matter with the intent to challenge the assessment on the basis that it contained errors of fact and/or law which were considered at the time of assessment will generally not be allowed.

For example, this could include requests for an adjustment to the allocation method that was used to determine business expenses versus personal expenses; the characterization and determination of gains and losses related to the disposition of a property; or the valuation cost assigned to the acquisition of certain capital property.

Technical tax matters of this nature dispute the correctness of the assessment, and the appropriate avenue to raise these matters is the objection/appeals process. For more information on a taxpayer's right of objection and appeal, see Pamphlet P148, *Resolving your dispute: Objection and appeal rights under the Income Tax Act*, or go to canada.ca/cra-complaints-disputes.

¶ 73.2. Subsection 152(4.2) is not intended to be used by taxpayers as an indirect way to dispute an assessment. However, if the guidelines given in ¶ 71 have been satisfied, it may be appropriate to consider an adjustment in situations where the taxpayer can show that there were exceptional circumstances that prevented them from filing an objection or an appeal.

If the time limit has not expired, taxpayers should apply for an extension of time to file a notice of objection with the CRA or to file an appeal with the Tax Court of Canada. For more information, see Pamphlet P148, *Resolving your dispute: Objection and appeal rights under the Income Tax Act*, or go to canada.ca/cra-complaints-disputes.

¶ 74. The CRA will generally not accept a request for an adjustment to a statute-barred tax year of an individual or a graduated-rate estate if the adjustment would result in the increase of taxes, interest, or penalties to the returns of other taxpayers that are statute-barred and the CRA cannot reassess them.

Example

A taxpayer included the full taxable capital gain from the sale of a rental property in his 2011 tax return. The taxpayer makes an adjustment request to reduce the amount of taxable capital gain by 50% because the property was jointly owned by his

spouse, and part of the gain should have instead been included on the spouse's return. At the time of the request, the normal three-year reassessment period for the spouse's 2011 tax year has expired.

The taxpayer's adjustment request for a reduction or refund in tax payable will not be accepted because the CRA cannot reassess the spouse for the tax and interest that would be payable on her share of the gain.

Making a request

¶ 75. Individuals and graduated-rate estates, or their authorized representatives, can apply for a refund from a statute-barred tax year under paragraph 164(1.5)(a) by sending the income tax return(s) together with documentation or explanations to support their claim(s) to their tax centre. If the returns were filed and the refund was not issued, they can make a written request.

¶ 76. To ask for a refund or a reduction of amounts owing under subsection 152(4.2), individuals should fill out Form T1-ADJ, T1 Adjustment Request, and graduated-rate estates should fill out Form T3-ADJ, T3 Adjustment Request. The request may also be made by sending a letter to the CRA with the following information:

- a) the name, address, phone number, social insurance number, and trust account number, or other identification tax number assigned by the CRA to the taxpayer
- b) the tax year(s) involved
- c) all relevant documents to support any claims being made
- d) an explanation for the adjustment they are requesting

The forms are available at canada.ca/cra-forms or by calling **1-800-959-8281**.

¶ 77. Individuals and graduated-rate estates, or their authorized representatives, can send completed forms or written requests for an adjustment and supporting documentation:

- electronically, using "Submit documents" from either of the following:
 - My Account at canada.ca/my-cra-account
 - Represent a Client at canada.ca/taxes-representatives
- by mail, to their tax centre

To get the addresses of CRA offices, see the instruction section on Form T1-ADJ or Form T3-ADJ or go to canada.ca/cra-contact.

¶ 77.1. A representative making a request for a taxpayer must have authorization from the taxpayer (see ¶ 31.1).

¶ 77.2. A corporate taxpayer can electronically submit an adjustment request with the transitional provision of subsection 152(4.2) using CRA-approved software. Corporations can also make their request in writing or by sending an amended tax return in bar code format to their tax centre. Individuals and trusts (including testamentary trusts)

can ask for an adjustment further to the transitional provision of subsection 152(4.2) electronically, in writing, or by completing the appropriate adjustment request form (see ¶s 76 and 77).

¶ 78. To support a claim on a return or adjustment request, individuals and graduated-rate estates should provide the information that applies to them, as follows:

- a) official receipts or certified true copies of receipts (for example, tuition, registered retirement savings plan, or charitable donation receipts)
- b) copies of information slips (for example, T3, T4, T5)
- c) details or calculations of expenses or deductions being claimed
- d) proof of payment, such as cancelled cheques, and bank or credit card statements for the deductions or credits being claimed

¶ 79. If T4 information slips apply, but are not available, an individual should provide a letter from their present or former employer(s), which states the individual's income and deductions for the year. Otherwise, the individual should provide the full name and address of their present or former employer(s), as well as copies of pay stubs or cancelled cheques.

¶ 80. If other types of information slips are not available, an individual and graduated-rate estate should give the name and address of the slip issuer and the amount that would be on the slip.

¶ 81. If it is impossible to get the proper documentation, individuals and graduated-rate estates should send full details and a written explanation.

¶ 82. The CRA will try to reconstruct and validate a claim or claims by referring to its records.

¶ 83. If the CRA cannot validate a claim after referring to its records, a refund will not be issued.

Provincial and territorial benefits and refundable credits

¶ 84. There may be time limits for claiming provincial and territorial benefits and credits (which are administered by the CRA for provinces and territories) stated in a provincial or territorial act. Subsection 152(4.2) and paragraph 164(1.5)(a) do not override provincial or territorial limits, unless provincial or territorial law allows for it. For more information on provincial and territorial programs, go to canada.ca/en/services/taxes/child-and-family-benefits.

Permissive deductions

¶ 85. The CRA will not process requests for adjustments if the requested decrease in tax is the result of an increased claim for capital cost allowance or other allowable deductions, where the taxpayer originally claimed less than the maximum

amount allowed. For more information, see Information Circular IC84-1, Revision of Capital Cost Allowance Claims and Other Permissive Deductions.

Overpayment of employment insurance premiums and Canada Pension Plan contributions

¶ 86. The relief described in ¶s 67 and 69 does not apply to refunds for overpayments of employment insurance (EI) premiums or Canada Pension Plan (CPP) contributions. The time limit to make an application for refunds of excess premiums or contributions is three and four years, respectively, under the Employment Insurance Act and the Canada Pension Plan legislation.

¶ 86.1. If a taxpayer receives a retroactive lump-sum CPP disability pension benefit, the time limit to apply for refunds for overpayments of excess contributions is 10 years from the end of the year the contributions were made. This 10-year time limit is effective for disability pension benefit entitlement decisions made on or after September 1, 2010. For decisions made before that date, the four-year time limit in ¶ 86 applies.

Requests based on a court decision or other resolution

¶ 87. Generally, the CRA will not reassess a statute-barred return if a request is made because of a court decision (for more information, see Information Circular IC 75-7R3, Reassessment of a Return of Income). Where a taxpayer has chosen not to take advantage of his or her right of objection or appeal for a tax year, requests made to reassess a statute-barred return based only on the result of an appeal by another taxpayer or by the same taxpayer will not be granted under subsection 152(4.2). For more information, see ¶s 71 and 71.1.

¶ 88. A taxpayer who chose not to take advantage of their right to object or appeal, may know about either another taxpayer's negotiated settlement for an objection or appeal, or another taxpayer's consent to judgment for an appeal. Generally, the result of such a settlement or consent will not be extended to reassess the taxpayer's statute-barred return under subsection 152(4.2).

¶ 88.1. Subsection 152(4.2) should not be used as an indirect way to dispute an assessment. However, under that subsection, it may be appropriate for the CRA to reassess a return to give similar tax treatment to a taxpayer based on another taxpayer's objection or appeal. This could happen if the taxpayer shows that they intended to file a notice of objection or an appeal, but could not because of exceptional circumstances. A request for an adjustment has to be made within a reasonable time, as circumstances permit.

¶ 88.2. Generally, the CRA will not reassess a statute-barred return if a request is made because of a judicial review decision for another taxpayer(s) whose adjustment request was referred back to the CRA for reconsideration by the court and the CRA granted that request (see ¶ 105).

Requests made to get similar tax treatment based only on the result of a judicial review process for another taxpayer(s) will not be granted under subsection 152(4.2), if the taxpayer does any of the following:

- a) makes a first request after the judicial review decision has been issued
- b) chooses not to take advantage of the opportunity to ask the CRA for a second administrative review (see ¶ 103) before the judicial review decision has been issued
- c) chooses not to take advantage of the right to file an application for judicial review with the Federal Court (see ¶ 105) or appeal a judicial review decision further through the courts

¶ 88.3. It may be appropriate for the CRA to reassess a return to give similar tax treatment to a taxpayer based on the results of a judicial review process by another taxpayer. This could happen if the taxpayer shows that they intended to make a first request; make a request for a second administrative review; or file a judicial review application or appeal, but could not because of exceptional circumstances. A request for an adjustment has to be made within a reasonable time, as circumstances permit.

Part V

Rules and procedures when relief is granted or denied

¶ 89. The information in Part V deals with rules and procedures for interest paid on overpayments, issuing refunds, and the right of objection to an assessment or reassessment issued because of a decision made by the minister of national revenue's delegate to grant relief to a taxpayer. That information also explains the recourse taxpayers have to ask for a second administrative review from the CRA or to have the minister's delegate's decision reviewed by the Federal Court. This recourse is available for taxpayers who do not agree with a minister's delegate's decision for denying relief or partly granting relief.

Reductions in refunds

¶ 90. Paragraph 164(1.5)(b) gives the minister of national revenue the authority to refund an overpayment of tax that results from a reassessment or redetermination for any of the following:

- a) an adjustment made beyond the normal reassessment period under subsection 152(4.2)
- b) penalties and interest cancelled under subsection 220(3.1)
- c) the application of subsection 220(3.4) for late, amended, or revoked election accepted under subsection 220(3.2)

¶ 91. Under certain circumstances, the CRA may reduce the amount of a refund to which an individual, graduated-rate estate, or testamentary trust might be entitled. For example, this may happen when a requested adjustment for a year beyond the normal reassessment period results in a refund for that year, but the adjustment would result in an increase of taxes, interest, or penalties for another year that is statute-barred. Under these circumstances, the CRA will usually grant a refund only for the amount that exceeds the taxes, interest, and penalties that would otherwise have been paid if the other year had not been statute-barred.

¶ 92. A refund that results from a redetermination of a Canada child tax benefit (CCTB), Canada child benefit (CCB), or goods and services tax/harmonized sales tax (GST/HST) credit payment may be reduced accordingly, if the individual's request would cause a redetermination to repay CCTB, CCB, or GST/HST overpayments received for one or more statute-barred year(s).

Refund interest

¶ 93. Subsection 164(3.2) provides for the payment of refund interest on an overpayment that results from a reassessment or redetermination that does either of the following:

- cancels all or part of any penalty and interest previously paid
- reduces the amount of tax paid due to accepting an adjustment or a late, amended, or revoked election

¶ 94. Refund interest is compounded daily at the prescribed rates starting on the 31st day after a written request to cancel penalty and interest; to accept a late, amended, or revoked election; or to allow an adjustment beyond the normal reassessment period was received in a manner satisfactory to the CRA.

¶ 95. The date on which the request was received in a manner satisfactory to the CRA is the date when the CRA has been given complete and accurate information about the request under review. In certain circumstances, refund interest may start later than the day stated in ¶ 94. For example, refund interest may start on a later date if there was not enough documentation given to support the taxpayer's claim for an adjustment, or a new request is made for penalty and interest relief, and the new request relies on different grounds than the previous request that was denied by the CRA. Taxpayers should satisfy the procedures described in the applicable section "Making a request."

¶ 96. For an income tax return filed by an individual, a graduated-rate estate, or a testamentary trust, subsection 164(3) provides that refund interest on an overpayment will start on the 31st day after the date the return was filed.

¶ 97. There is no interest paid on a refund or part of a refund for GST/HST credit, CCTB, or CCB payments made to an individual.

Application of refund to other debts

¶ 98. Under subsection 164(2), the amount of any refund that results from an assessment made under the taxpayer relief provisions (except for CCTB or CCB payments) may be applied against any amount the taxpayer owes or is about to owe.

Refund withheld until outstanding returns are filed

¶ 99. Under subsection 164(2.01), a refund will not be paid to a taxpayer, applied to other debts, or used to set off amounts under the Income Tax Act until all required returns have been filed with the CRA under the following legislation:

- Income Tax Act
- Air Travellers Security Charge Act
- Excise Act, 2001
- Excise Tax Act

Right of objection

¶ 100. Under subsection 165(1.2), if the minister of national revenue has cancelled part or all of any penalties and interest under subsection 220(3.1) or has allowed an adjustment beyond the normal reassessment period under subsection 152(4.2), a taxpayer cannot file an objection to dispute the assessment.

¶ 101. If the minister has accepted a late, amended, or revoked election under subsection 220(3.2) that results in an assessment, a taxpayer can file an objection under subsection 165(1.1) to dispute the assessment made under subsection 220(3.4). However, objections are limited to matters that gave rise to the assessment.

¶ 102. The normal objection procedures under subsection 165(1) apply to an assessment made to allow a refund resulting from an income tax return filed by an individual, graduated-rate estate, or testamentary trust under paragraph 164(1.5)(a). For more information on a taxpayer's right of objection and appeal, see Pamphlet P148, Resolving your dispute: Objection and appeal rights under the Income Tax Act, or go to canada.ca/cra-complaints-disputes.

Redress – Second administrative review

¶ 103. There is no right of objection or appeal for a taxpayer to dispute a decision made under the taxpayer relief provisions. However, if the taxpayer believes that the minister of national revenue's discretion has not been properly exercised, the taxpayer can ask that another delegated official from the tax services office or the tax centre reconsider the original decision and review the situation again. During the second review, the taxpayer will have the opportunity to make additional representations for the CRA's consideration.

¶ 104. The second review is an independent review of the original decision. CRA officials not involved in the first review and decision will do the second review. A decision report, including a recommendation on whether to grant or deny relief, will be prepared for another delegated official to consider. The responsibility for the final decision and notification of the decision, in writing, to the taxpayer rests with the delegated official responsible for the second review.

¶ 104.1. Taxpayers or their authorized representatives should fill out Form RC4288, Request for Taxpayer Relief – Cancel or Waive Penalties or Interest, or send a letter to make a written request for a second administrative review of a decision on the cancelling of penalties and interest under subsection 220(3.1). Requests for a second administrative review of a decision related to an adjustment under subsection 152(4.2) or acceptance of a late, amended, or revoked election under subsection 220(3.2) must be made by sending a letter to the CRA. For information on how to send the completed form or written request, see the applicable section “Making a request.”

¶ 104.2. A taxpayer’s request for a second administrative review should explain in detail the reasons why they disagree with the original decision and include any new relevant information not considered.

Redress – Judicial review

¶ 105. If a taxpayer believes that the minister of national revenue’s discretion was not properly exercised, the taxpayer can apply for judicial review of that decision with the Federal Court under section 18.1 of the Federal Courts Act, within 30 days of the date the taxpayer received notification of the minister’s decision. The Federal Court may extend the 30-day time limit to file an application for judicial review.

¶ 106. To ask for judicial review, the taxpayer must send a completed Federal Court Form 301, Notice of Application, with the appropriate filing fee to the registrar of the Federal Court. For more information on how to file an application for judicial review or other general enquiries, taxpayers can contact their local Federal Court registry office. To get the addresses and phone numbers of Federal Court registry offices, visit cas-satj.gc.ca.

¶ 107. If it is determined that the minister’s discretion was not properly exercised, the Federal Court cannot substitute its decision for the decision of the minister. The Court can only refer the decision back to the minister to be reconsidered by another delegated official.

¶ 108. As a general policy, before filing an application for judicial review with the Federal Court, taxpayers should ask for a second administrative review (described in ¶ 103) from the CRA and wait until that review is completed and a decision is made.

¶ 108.1. If a taxpayer does not agree with the judgment of the Federal Court, they can file an appeal to the Federal Court of Appeal within 30 days of the date of the Federal Court’s judgment. The months of July and August are not included in the 30-day period.

¶ 108.2. When the Federal Court (or the Federal Court of Appeal) refers a minister’s decision back to the CRA for reconsideration, a delegated official not previously involved with the request will issue a new decision. If a taxpayer believes that the minister’s discretion was not properly exercised, the taxpayer has to apply for judicial review of the new decision with the Federal Court within the 30-day period noted in ¶ 105.

¶ 108.3. If a selected listed financial institution (SLFI) believes that the minister’s discretion was not properly exercised under section 94.1 of the Tax Administration Act for Quebec sales tax purposes, the SLFI can file a motion for judicial review with the Superior Court of Québec within 30 days of the date the SLFI received notification of the minister’s decision. For more information on how to file a motion for judicial review or other general enquiries, contact Justice Québec or visit justice.gouv.qc.ca. For a decision made under the Excise Tax Act for GST/HST purposes, the judicial review process described in ¶ 105 would apply to a SLFI.

Requests made while an objection or appeal is in progress

¶ 109. A request to cancel penalties and interest on the grounds of extraordinary circumstances or actions of the CRA for an assessment under objection or appeal may be reviewed and the intended decision may be communicated informally to a taxpayer. A formal written decision will not be issued until the objection or appeal is resolved or until all rights of appeal have expired.

¶ 110. The following requests for an assessment that is under objection or appeal will generally be put on hold until the outcome of the objection or appeal process is determined or until all rights of appeal have expired:

- to cancel penalties and interest, based on inability to pay or financial hardship under subsection 220(3.1)
- for an adjustment under subsection 152(4.2)
- to accept a late, amended, or revoked election under subsection 220(3.2)

¶ 110.1. When the objection or appeal process is done, the CRA will issue a formal written decision to the taxpayer and may ask the taxpayer for a signed waiver of any right to ask for a second administrative review or right to file an application for judicial review of the minister’s decision on granting penalty and interest relief.

More information and comments

¶ 111. For more information on the taxpayer relief provisions, go to canada.ca/taxpayer-relief.

¶ 112. If you have any comments about this information circular, please write to:

Appeals Branch
Relief, Redress and Branch Services Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

Appendix A – List of prescribed elections

References to the **act** and the **regulations** refer to the Income Tax Act and the Income Tax Regulations.

Section 600 of the regulations lists the provisions of the act and regulations under which a taxpayer or a partnership can apply under subsection 220(3.2) of the act to make a late or amended election, or to revoke an election.

The list of eligible elections reflects the amendments to section 600 in Bill C-29, Budget Implementation Act, 2016, No. 2.

Below is a list of the prescribed provisions and a brief description of related elections:

Deferral on non-Canadian controlled private corporation employee options

Former subsection 7(8) of the act lets an employee defer the tax on an employment benefit realized from a qualifying acquisition of a particular security under an agreement with the employer (or a person not dealing at arm's length with the employer) until the year in which the employee disposes of the security, becomes a non-resident of Canada, or dies, whichever occurs first. This is the case if the employee elects in accordance with subsection 7(10) to have subsection 7(8) apply. These subsections were repealed effective for rights exercised after 4:00 pm, Eastern time, March 4, 2010.

File: Form T1212, Statement of Deferred Security Options Benefits

Deemed outlay or expense

Paragraph 12(2.2)(b) of the act lets a taxpayer elect to reduce the amount of an outlay or expense (other than an outlay or expense which relates to the cost of a property) incurred in the year, the next year, or any previous year, by all or part of any related government assistance received in the year, which would otherwise be included in income by virtue of paragraph 12(1)(x).

File: Signed letter

Available-for-use rules on long-term projects

Subsection 13(29) of the act lets a taxpayer elect to include an amount, within limits, as undepreciated capital cost for long-term project, depreciable property under the available-for-use provisions of subsections 13(26) to 13(28), before the completion of the project.

File: Form T1031, Subsection 13(29) Election in Respect of Certain Depreciable Properties, Acquired for Use in a Long-Term Project

Amounts paid for undertaking future obligations

Subsection 20(24) of the act lets a taxpayer deduct from income certain payments made to get another person's agreement to take on certain future obligations for which an amount was included in the taxpayer's income under paragraph 12(1)(a). The taxpayer and the recipient have to jointly elect under subsection 20(25).

File: Jointly signed letter

Cost of borrowed money

The elections contained in section 21 of the act let a taxpayer elect to capitalize, instead of deducting as a current expense, the cost of borrowed money used to acquire depreciable property (subsections 21(1) and 21(3)) or used for exploring, developing, or acquiring a resource property (subsections 21(2) and 21(4)).

File: Signed letter

Exchanges of property

Subsections 13(4), 14(6), 44(1), and 44(6) of the act let a taxpayer elect to defer an income inclusion or the recognition of a capital gain when a replacement property is acquired for a property that was stolen, expropriated, or destroyed, or for a former business property that was sold. The replacement property rules for eligible capital property under subsection 14(6) were repealed as of January 1, 2017.

File: Signed letter

Adjustments to cost base

Subsections 13(7.4) and 53(2.1) of the act let a taxpayer elect to reduce the capital cost of depreciable property and the adjusted cost base of non-depreciable capital property, respectively, by the amount of any related inducement, refund, reimbursement, contribution, allowance, or other assistance that would otherwise be included in income under paragraph 12(1)(x).

File: Signed letter

Election where change of use

Subsection 45(2) of the act lets a taxpayer elect to designate a property as their principal residence, even though there has been a change in use to an income-producing property.

Subsection 45(3) of the act lets a taxpayer elect to defer a capital gain on the change of use of a property from an income-producing property to a principal residence.

File: Signed letter

Debts established to be bad debts and shares of a bankrupt corporation

Subsection 50(1) of the act applies to debts established to be bad debts in a tax year and to certain shares. This subsection lets a taxpayer elect to have a deemed disposition at the end of the year and a reacquisition right after at nil cost.

File: Signed letter

Amounts received or receivable under a restrictive covenant

Paragraph 56.4(3)(b) of the act lets a taxpayer, who is dealing at arm's length with a purchaser, elect (or jointly elect with the purchaser, if the purchaser does business in Canada to which a covenant relates), according to subsection 56.4(13), to not have the covenant income inclusion rules under subsection 56.4(2) apply. Subsection 56.4(2) does not apply to the extent that an amount would otherwise be included in calculating the taxpayer's cumulative eligible capital of the business under the covenant.

Paragraph 56.4(3)(c) of the act lets a taxpayer and the purchaser (with whom the taxpayer is dealing at arm's length) jointly elect, according to subsection 56.4(13), to not have the covenant income inclusion rules under subsection 56.4(2) apply, to the extent that an amount is additional proceeds of disposition from the disposition of an eligible interest.

Subsection 56.4(7) of the act lets a taxpayer (or the taxpayer's eligible corporation) and the purchaser (or the purchaser's eligible corporation) that deal at arm's length, jointly elect, according to subsection 56.4(13), to have subsection 56.4(5) apply, thus avoiding the allocation rules in section 68. These rules would otherwise apply to an amount received or receivable under a restrictive covenant on the realization of a goodwill amount or the disposition of property.

File: Jointly signed letter, since the prescribed form is not available

Successor rules for resource properties

Paragraphs 66.7(7)(c), 66.7(d), and 66.7(e), and 66.7(8)(c), 66.7(8)(d), and 66.7(8)(e) of the act let a predecessor corporation and a successor corporation elect to transfer the unused pools of resource expenses from the predecessor to the successor corporation. The elections stated in paragraphs 66.7(7)(d) and 66.7(8)(d) that were filed under the old first and second successor rules were repealed with the introduction of the new successor rules effective for tax years that ended before February 18, 1987.

File: Form T2010, Election to Deduct Resource Expenses Upon Acquisition of Resource Property by a Corporation

Transfers or distributions to a taxpayer's spouse, common-law partner, or spousal/partner trust on the death of the taxpayer

Subsection 70(6.2) of the act lets a taxpayer's legal representative elect to have the rollover rules under subsections 70(5.1), 70(6), and 70(6.1) not apply. This would result in the deemed disposition of assets at fair market value under subsection 70(5) and the deemed payment of amounts in NISA Fund No.2 (an AgriInvest program account) under subsection 70(5.4).

File: Signed letter

Transfer of farm and fishing property, or family farm or fishing corporations and partnerships, to a child

Subsection 70(9.01) of the act lets a taxpayer's legal representative elect an amount, within limits, as proceeds of disposition for farm and fishing property that is transferred to a child on the taxpayer's death.

Subsection 70(9.11) of the act lets a spousal or common-law partner trust elect an amount, within limits, as proceeds of disposition for farm and fishing property that is transferred from the trust to a child on the spouse or common-law partner's death.

Subsection 70(9.21) of the act lets a taxpayer's legal representative elect an amount, within limits, as proceeds of disposition for a share in a family farm or fishing corporation, or an interest in a family farm or fishing partnership, that is transferred to a child on the taxpayer's death.

Subsection 70(9.31) of the act lets a spousal or common-law partner trust elect an amount, within limits, as proceeds of disposition for a share in a family farm or fishing corporation, or an interest in a family farm or fishing partnership, that is transferred from the trust to a child on the spouse or common-law partner's death.

File: Signed letter

Election by legal representative and transferee regarding reserves

Subsection 72(2) of the act lets a legal representative of a deceased taxpayer and a transferee jointly elect to claim a deduction for certain reserves, as long as the amount deducted is included in the income of the taxpayer's spouse or common-law partner or spousal or common-law partner trust.

File: Form T2069, Election in Respect of Amounts Not Deductible as Reserves for the Year of Death

Inter vivos transfer of property

Subsection 73(1) of the act lets a taxpayer elect to have the rollover provisions for an inter vivos transfer of assets to a spouse or common-law partner or certain trusts not apply. This results in the assets to be considered transferred at fair market value for tax purposes.

File: Signed letter

Deemed settlement on winding-up

Paragraph 80.01(4)(c) of the act lets a parent corporation elect to reduce the amount to which subsection 80(1) (debt forgiveness rules) might otherwise apply. This is for cases where a debt owed between a parent corporation and its subsidiary is settled on the winding-up of the subsidiary for less than the principal amount and the cost amount of the debt.

File: Form T2027, Election to Deem Amount of Settlement of a Debt or Obligation on the Winding-Up of a Subsidiary

Expropriation assets acquired as compensation for, or as consideration for sale of, foreign property taken by or sold to a foreign issuer

Subsection 80.1(1) of the act applies to a Canadian resident taxpayer who has acquired expropriation assets issued or guaranteed by a foreign government as compensation for the expropriated or forced sale of shares of a foreign affiliate or foreign property used for business in a foreign country. The election establishes the deemed cost of the expropriation assets and the deemed proceeds of disposition of the property that was expropriated or sold.

File: Form T2079, Election Re: Expropriation Assets Acquired as Compensation for or as Consideration for Sale of Foreign Property Taken by or Sold to Foreign Issuer

Dividends received by a taxpayer's spouse or common-law partner

Subsection 82(3) of the act lets a taxpayer elect to have a taxable dividend from a taxable Canadian corporation received by the taxpayer's spouse or common-law partner included in the taxpayer's income, where such an inclusion increases the taxpayer's spouse or common-law partner credit under paragraph 118(1)(a).

File: Signed letter

Capital dividend

Subsection 83(2) of the act lets a private corporation elect to have the full amount of a dividend that is payable by it to be treated as a capital dividend, which effectively allows those dividends to be paid tax free to shareholders resident in Canada.

File: Form T2054, Election for a Capital Dividend Under Subsection 83(2)

Eligible distributions of foreign spinoff shares

Paragraph 86.1(2)(f) of the act lets a taxpayer elect to defer the tax on eligible distributions of foreign spinoff shares.

File: Signed letter

Preferred beneficiary election

Subsection 104(14) of the act lets a trust and its preferred beneficiaries elect to have the income of the trust included in the income of the preferred beneficiaries, instead of being taxed in the trust.

File: Written statement as stated in section 2800 of the regulations

No rollover on election by trust

Subsection 107(2.001) of the act lets a personal trust or prescribed trust resident in Canada at the time of a distribution elect to not have the rollover in subsection 107(2) applied to the distribution of certain property to a beneficiary to satisfy the beneficiary's capital interest in the trust.

File: Signed letter

Deemed disposition on emigration

Paragraph 128.1(4)(d) of the act lets an individual (other than a trust) elect to treat certain properties that would otherwise be exempt from the deemed disposition that occurs when the individual stops being resident in Canada as having been disposed of.

File: Form T2061A, Election by an Emigrant to Report Deemed Dispositions of Property and Any Resulting Capital Gain or Loss

Departure tax adjustment for a returning former resident

Paragraphs 128.1(6)(a) and 128.1(6)(c) of the act apply to an individual (other than a trust) who stops being resident in Canada after October 1, 1996, and later returns to reside in Canada. The effect of the election is to unwind the deemed disposition under subsection 128.1(4) for certain properties still held when the individual returns to Canada.

File: Signed letter

Departure tax adjustment for a returning trust beneficiary

Paragraphs 128.1(7)(d) and 128.1(7)(g) of the act apply to an individual trust beneficiary (other than a trust) who stops being resident in Canada after October 1, 1996, receives a distribution of property from the trust while a non-resident, and later returns to reside in Canada while still owning the property. These rules let the beneficiary and the trust jointly elect, on the beneficiary's return to Canada, to unwind the deemed disposition under subsection 107(2.1), which was triggered when the trust distributed the property to the non-resident beneficiary.

File: Jointly signed letter

Post-emigration loss on disposition

Paragraph 128.1(8)(c) of the act applies to an individual (other than a trust) who disposes of taxable Canadian property, after no longer being resident in Canada after October 1, 1996, for proceeds that are less than the deemed proceeds that arose on the deemed disposition on emigration under paragraph 128.1(4)(b). The individual can elect to reduce the deemed proceeds of disposition that arose when the individual emigrated.

File: Signed letter

Allocation of income by communal organizations

Subsection 143(2) of the act lets a communal organization elect to have its taxable income, earned by the deemed trust under subsection 143(1), allocated to members of the organization.

File: Signed letter

Home Buyers' Plan

Subsection 146.01(7) of the act lets a deceased taxpayer's legal representative and the surviving spouse or common-law partner elect to continue the repayment obligations of the deceased taxpayer who participated in the Home Buyers' Plan, and not to have the full outstanding balance of the plan included on the taxpayer's final return. The effect of the election is to put the surviving spouse or common-law partner in the same position as the deceased taxpayer for the repayment of the balance.

File: Signed letter

Lifelong learning plan

Subsection 146.02(7) of the act lets a deceased taxpayer's legal representative and the surviving spouse or common-law partner elect to continue the repayment obligations of the deceased taxpayer who participated in the lifelong learning plan, and not to have the full outstanding balance of the plan included on the taxpayer's final return. The effect of the election is to put the surviving spouse or common-law partner

in the same position as the deceased taxpayer for the repayment of the balance.

File: Signed letter

Disposition of property by legal representative of deceased taxpayer

Subsection 164(6) of the act lets a deceased taxpayer's legal representative to elect to treat certain capital losses or terminal losses of the taxpayer's estate for its first tax year as capital losses or terminal losses of the taxpayer for the year of death.

File: Signed letter with documents as stated in section 1000 of the regulations

Realization of deceased employees' options

Subsection 164(6.1) of the act lets a deceased taxpayer's legal representative elect to treat the amount of the loss realized on the exercise, disposition, or expiration of rights to acquire certain securities within the first tax year of the taxpayer's estate as a loss of the taxpayer for the year of death.

File: Signed letter as stated in section 1000.1 of the regulations

Excess capital dividend or capital gains dividend

Subsection 184(3) of the act lets a corporation elect to have the amount of the elected capital dividend (for a private corporation) or capital gains dividend (for a mortgage investment, mutual fund, or investment corporation) in excess of the balance in the corporation's capital dividend or capital gains dividend account treated as a separate, taxable dividend, thereby avoiding the tax otherwise payable under Part III.

File: Signed letter with documents as stated in section 2106 of the regulations

Time of day a loss restriction event occurs for a trust

Subsection 251.2(6) of the act lets a trust elect not to have a loss restriction event deemed to occur at the start of the day on which the event took place. If the trust makes an election, the time of day that the loss restriction event took place will be recognized.

File: Signed letter

Date of acquisition of control

Subsection 256(9) of the act lets a corporation elect not to have the acquisition of control deemed to occur at the start of the day on which the acquisition took place. If the corporation makes an election, the time of day that the acquisition of control took place will be recognized.

File: Signed letter

Elections to include properties in Class 1

Subsection 1103(1) of the regulations lets a taxpayer elect, for capital cost allowance purposes, to include in Class 1 all properties included in classes 2 to 10 and classes 11 and 12.

File: Signed letter

Elections to include properties in Class 2, 4, or 17

Subsection 1103(2) of the regulations lets a taxpayer elect, for capital cost allowance purposes, to include in Class 2, 4, or 17, a property acquired before May 26, 1976, that would otherwise be included in another class when the chief depreciable properties of the taxpayer are included in Class 2, 4, or 17.

File: Signed letter

Elections to make certain transfers

Subsection 1103(2d) of the regulations lets a taxpayer elect to defer a capital cost allowance recapture by transferring the property disposed of to a new class of which the taxpayer has property. This can be done when the property disposed of would have been a property of the new class if it had been acquired when the property of the new class was acquired.

File: Signed letter

Earnings of a foreign affiliate

Subsection 5907(2.1) of the regulations lets a corporation, in calculating the active business earnings of a foreign affiliate, make an election for the cost of a foreign resource property or the cost of a capital property.

File: Signed letter