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Introduction

This information circular gives you an overview of many of the collections policies that the Canada Revenue Agency (CRA) has for individuals, businesses, and organizations that owe money to the Crown. This information circular will help you understand your rights and responsibilities when you deal with the CRA. For more information on CRA tax collection policies, go to cra.gc.ca/collections.

The CRA has an obligation to uniformly and fairly apply the provisions of the acts and regulations that we administer.

We also have to make sure that all persons pay the required amount of taxes, duties, fees, penalties, and other amounts owing to the Crown.

Since legislative provisions and requirements can change at any time, we modify our collections policies accordingly and we make every effort to provide updates in a timely manner. However, if a discrepancy arises between this information circular and current legislation or our most recent policies, the legislation and policies will take precedence.

If you have questions about policies not covered in this circular; want confirmation of aspects of the policies we discuss; or need more information, please contact your collections officer. If you do not have a collections officer or cannot reach the officer, call us at **1-888-863-8657**. For self-serve options, go to cra.gc.ca/contact.

In this circular, we use the term persons to include:

- individual and corporate taxpayers
- partnerships
- employers and remitters of source deductions
- goods and services tax / harmonized sales tax (GST/HST) registrants
- individuals and corporations that receive GST/HST rebates
- licencees
- importers/exporters
- customs brokers
- international travellers

For information regarding other collections policies that we administer, see information circulars IC13-2R1, *Government Programs Collections Policies* and IC13-3, *Customs collections policies*.

Filing and payment obligations

Tax deductions at source

Employees who file an income tax return each spring will likely have paid part or all of their taxes through amounts their employers deducted from their income. The amount an employer deducts depends on the credits an employee claims on Form TD1, *Personal Tax Credits Return*. If an employee's situation changes during the year, or if the information on the form is out-of-date, the employee should complete a new Form TD1.

This way the employer can deduct the proper amount of tax from the employee's income. If the employer makes regular deductions, it is less likely that the employee will have to pay a large tax amount when it is time to file an income tax return. If you have more than one employer, you should only claim your tax credits on Form TD1 with **one** of your employers. The other employers should calculate source deductions without applying a tax credit.

Instalments

Self-employed and other individuals whose income tax is not payroll or source deducted, or only partially so, may have to make instalment payments. By making these payments, it will help them avoid a large amount owing when it's time to file their income tax return. To find out if you should be making instalment payments for your **current** tax year, go to cra.gc.ca/instalments. We charge interest, and in some cases a penalty, on late or insufficient instalments.

Most corporations have to make monthly income tax instalment payments throughout the year for their **current** tax or fiscal year. This helps to make sure that any balance owing at the end of a corporation's fiscal year will be minimal. We charge interest on late or insufficient corporation income tax instalments. For more details on corporation income tax instalments, see Guide T4012, *T2 Corporation – Income Tax Guide* and Guide T7B-CORP, *Corporation Instalment Guide*.

Making a payment

Any amount you owe is payable in full as soon as your return is assessed or reassessed. If you do not pay your outstanding debt or contact us to discuss payment of the debt, we may take legal action to collect the unpaid amount.

Until an amount is paid in full, we charge compound daily interest at the prescribed rate.

To make your payment, or to get information about the payment methods available to you, please go to cra.gc.ca/payments.

Important dates

For a listing of important dates including tax return filing due dates, balance owing due dates, and instalment payment due dates, go to cra.gc.ca/importantdates.

Payment arrangements

If you can't pay the full amount you owe and you can explain your financial situation to us, one of our officers will work with you to develop a plan to help you pay your debt. To discuss a payment arrangement, you may call us at **1-888-863-8657**. Our officers are available Monday to Friday (except holidays) from 7 a.m. to 11 p.m., Eastern time.

To help us determine your ability to pay, you will have to make full disclosure and give evidence of your income, expenses, assets, and liabilities. A collections officer may verify the information you provide before we accept a payment arrangement. Your ability to pay is subject to periodic review.

If you do not agree with a collections officer's decision, you have the right to discuss the matter with the officer's supervisor. The collections officer will give you the supervisor's name and telephone number on request.

If your debt remains unpaid with no acceptable payment arrangement, we may take legal action to collect the amount. For more information, see *Legal action to collect*.

If you cannot make a payment on your debt due to circumstances beyond your control, we may allow you to postpone payment until your financial situation improves. During that time, any interest and penalties that apply will continue to accrue on the debt.

Cancel or waive penalties or interest

The CRA administers legislation, commonly called the taxpayer relief provisions, that gives the CRA discretion to cancel or waive penalties and interest when taxpayers cannot meet their tax obligations due to circumstances beyond their control.

The CRA's discretion to grant relief is limited to any period that ended within 10 calendar years before the year in which a request is made.

For penalties, the CRA will consider your request only if it relates to a tax year or fiscal period ending in any of the 10 calendar years before the year in which you make your request. For example, your request made in 2017 must relate to a penalty for a tax year or fiscal period ending in 2007 or later.

For interest on a balance owing for any tax year or fiscal period, the CRA will consider only the amounts that accrued during the 10 calendar years before the year in which you make your request. For example, your request made in 2017 must relate to interest that accrued in 2007 or later.

To make a request, fill out Form RC4288, *Request for Taxpayer Relief – Cancel or Waive Penalties or Interest*. For more information about relief from penalties or interest, or how to submit your request, go to cra.gc.ca/taxpayerrelief.

Legal action to collect

If you do not pay an amount voluntarily, we may take legal action to collect the amount by:

- garnishing wages or other income sources
- seizing and selling your assets
- using other means under any applicable statutes or laws

Garnishment action allows us to intercept and take funds otherwise payable to you by a third party, such as wages, other income sources or other amounts.

Similarly, if any other federal agency or department owes you money, we can arrange to have all or part of that money sent to us by issuing a set-off. We will then apply the amount against your debt. We will notify you by mail of the actions we take.

The *Income Tax Act*, *Excise Tax Act*, *Excise Act 2001*, *Softwood Lumber Products Export Charge Act*, 2006, and *Air Travellers Security Charge Act* provide for the registration of a certificate in the Federal Court of Canada for unpaid amounts. Once registered, a certificate has the same force and effect as a judgment obtained in the Court. When a debt is certified, we will usually notify you by mail. If you still do not pay the amount, we may obtain a writ or memorial and seize assets and/or property, and have it advertised and sold by a sheriff or bailiff.

You have to pay all reasonable costs and charges that we have incurred to collect a certified amount. After costs and charges are paid, any remaining proceeds from a sale will be applied to your debt.

Once we issue set-offs, garnishments, or start other legal proceedings, we will usually not stop or withdraw these actions until the account is paid in full, or when it can be shown that the action is causing undue hardship. For more information on garnishments (requirements to pay), go to cra.gc.ca/collections and select "Questions and answers on requirement to pay" in the section called "Related links."

Collections restrictions

There are certain types of legal action that we cannot normally start until 90 days after we send a notice of assessment or reassessment. These include:

- starting proceedings in court
- certifying the amount in the Federal Court under section 223 of the *Income Tax Act*, section 83 of the *Excise Tax Act*, section 288 of the *Excise Act 2001*, or section 88 of the *Softwood Lumber Products Export Charge Act*, 2006
- requiring a third party who owes a person money to make a payment under subsection 224(1) of the *Income Tax Act*, subsection 84(1) of the *Excise Tax Act*, subsection 289(1) of the *Excise Act 2001*, or subsection 89(1) of the *Softwood Lumber Products Export Charge Act*, 2006
- requiring an institution or other third party who is lending or advancing a person money to make a payment under subsection 224(1.1) of the *Income Tax Act*, subsection 289(2) of the *Excise Act 2001*, or subsection 89(2) of the *Softwood Lumber Products Export Charge Act*, 2006
- requiring a person to turn over money under subsection 224.3(1) of the *Income Tax Act*, subsection 292(1) of the *Excise Act 2001*, or subsection 92(1) of the *Softwood Lumber Products Export Charge Act*, 2006
- giving a notice, issuing a certificate, or making a direction under subsection 225(1) of the *Income Tax Act*, subsection 293(1) of the *Excise Act 2001*, or subsection 93(1) of the *Softwood Lumber Products Export Charge Act*, 2006

Note: The collections restrictions do not apply to the application of payments or refundable credits to other debts, which can occur at any time after a notice of assessment or reassessment is sent under the *Income Tax Act*, the *Excise Tax Act*, the *Excise Act 2001*, the *Softwood Lumber Products Export Charge Act*, 2006, or the *Air Travellers Security Charge Act*. For the *Excise Act*, the application of payments or refundable credits to other debts is done under the authority of the *Financial Administration Act*.

Exceptions to collections restrictions

The restrictions to our ability to take legal action, outlined in the Collections restrictions section of this circular, do **not** apply to assessments issued for the items listed below.

Under the *Income Tax Act*:

- Assessments raised on payroll deduction accounts
- Scientific research and experimental development tax credits – An amount payable under Part VIII of the *Income Tax Act*
- Non-resident tax – An amount of tax required to be paid under section 116, or under a regulation made under subsection 215(4) of the *Income Tax Act*, which has not been paid
- Penalties – The amount of any penalty payable for failure to remit or pay a deemed trust amount, as and when required by the *Income Tax Act*, the *Canada Pension Plan*, the *Employment Insurance Act*, or a regulation made under those acts
- Interest – Any interest payable under a provision of the *Income Tax Act*, the *Canada Pension Plan*, and the *Employment Insurance Act* for an amount referred to in any of the above paragraphs
- Large corporations – Where a large corporation as defined in subsection 225.1(8) of the *Income Tax Act* has been assessed, we may take action to collect half of the amount assessed at any time during the 90 day period after the notice of assessment or reassessment is sent and regardless of whether an objection or appeal has been filed. For more information, see income tax interpretation Bulletin IT-532, *Part I.3 – Tax on Large Corporations*.
- Tax owing as a result of a tax shelter donation, for the 2013 and later tax years, for an amount claimed under section 110.1 or 118.1 of the *Income Tax Act*. We may take action to collect half of the amount assessed and owing as a result of a tax shelter donation at any time during the 90 day period after the notice of assessment or reassessment is sent and regardless of whether an objection or appeal has been filed.
- A reassessment with the taxpayer's consent under subsection 152(4.2)

- A reassessment after the disposition of an appeal with consent in writing from the taxpayer under subsection 169(3)
- A reassessment after the waiver of penalty and/or interest under subsection 220(3.1)

Under the *Excise Tax Act*:

- There are no collections restriction provisions within the *Excise Tax Act* (GST/HST)

Under the *Excise Act 2001*:

- When the total of all amounts assessed and unpaid exceeds \$1,000,000, we may take action to collect up to half of the total amount at any time during the 90 day period after the notice of assessment or reassessment is sent and regardless of whether an objection or appeal has been filed

Under the *Air Travellers Security Charge Act*:

- There are no collections restrictions provisions under this act

Effect of collections delay

The collections restrictions outlined in this circular do not apply if collection of all or part of an assessed amount would be jeopardized if there were a delay in collecting it. See the Special collections provisions section of this circular, which discusses collections in jeopardy.

Unfiled returns and refunds

A refund will not be paid to a person until that person has filed all returns and other records that are required to be filed under the *Income Tax Act*, the *Excise Tax Act*, the *Excise Act 2001*, the *Softwood Lumber Products Export Charge Act, 2006*, and the *Air Travellers Security Charge Act*.

Refunds applied to other debts

We can offset (apply against another debt) your payment or refund against your debts, even if the amounts you owe are the subject of an objection or appeal.

Trust funds

The collections restrictions outlined above do not apply to trust funds described in this section.

As an employer, partnership, corporation, or a business operating as a sole proprietor, you are deemed to hold the amounts below in trust. For more information, go to cra.gc.ca/collections and select "Information on deemed trust" in the Related links section.

Under the *Income Tax Act*:

- Amounts that are deducted from employees and other individuals for:
 - (i) income tax
 - (ii) Canada Pension Plan (CPP) contributions
 - (iii) employment insurance (EI) premiums

Under the *Excise Tax Act*:

- Amounts collected as or on account of GST/HST under Part IX, less allowable input tax credits

Under the *Air Travellers Security Charge Act*:

- Amounts collected as or for charges on air transportation service

You have to send us these amounts as the legislation requires.

For payroll amounts, in addition to the trust amounts noted above, you must also include the employer's portion of CPP and EI when you send us source deductions.

For GST/HST amounts, you can deduct allowable input tax credits before you send the amounts you collect. However, along with the amounts of GST/HST that you collect, you must also send the GST/HST amounts charged to your clients within each reporting period even if you have not yet collected the amounts from them.

If you do not comply with the legislation that applies, we will assess the amount owing and ask you to immediately pay the full balance, including any penalties and interest that apply.

If you do not pay the balance owing, we may start legal action as described in Legal action to collect. These actions can occur even if you file a notice of objection or appeal to the Tax Court of Canada.

Fines and offences

It is an offence to withhold amounts but fail to send them to the Receiver General for Canada, or to willfully fail to pay, collect, or send GST/HST, or net tax. Under the *Income Tax Act* and the *Air Travellers Security Charge Act*, if you are convicted, you are liable to a fine of between \$1,000 and \$25,000, or both a fine and imprisonment for up to 12 months. Under the *Excise Tax Act*, if you are convicted, you are liable to a fine of \$1,000 plus 20% of the GST/HST or net tax that you should have paid, collected, or remitted, or both a fine and imprisonment for up to six months.

Directors' liability

We may hold the directors of a corporation jointly and severally liable if the corporation fails to deduct, withhold, or send amounts deemed to be held in trust, and we are unable to collect from the corporation. In addition, the directors are jointly and severally liable, with the corporation, to pay any penalties or interest that have accrued or will accrue on outstanding amounts.

After we have issued assessments against directors, the collections policies in this circular will apply.

For more information about the rights and obligations of directors of a corporation, see Information Circular IC89-2R3, *Directors' Liability – Section 227.1* of the *Income Tax Act* and Section 323 of the *Excise Tax Act*.

Objections and appeals

If you disagree with an assessment or a reassessment, or do not understand it, you should contact or write to the tax centre that processed your return to discuss the matter. If you cannot resolve the matter, you have the right to a formal review. Our review process differs according to what is in disagreement or dispute. For details about the review processes that are available, go to cra.gc.ca/resolvingdisputes.

Repayment of disputed amounts (*Income Tax Act*)

You can apply in writing for the return of all amounts paid towards the amounts in dispute, or the release of any security provided for tax in dispute. If the Appeals Division has not confirmed or varied an income tax assessment within 120 days of the date a notice of objection is served, the amounts paid or security provided could be returned or released. Similarly, if you appeal an income tax assessment to the Tax Court of Canada, you can request for the return of any disputed amount that has been paid, or the return of any security provided for the amount in dispute.

A large corporation, as defined in subsection 225.1(8) of the *Income Tax Act*, is entitled to a repayment or return of security of one half of a disputed amount. The same applies for tax owing as a result of a tax shelter donation, for an amount claimed under section 110.1 or 118.1 of the *Income Tax Act* (for the 2013 and later tax years).

However, repayment of amounts paid or release of security provided **will not occur** in the following situations:

- The CRA determines that there is a risk in not collecting all or part of your assessed and disputed tax debt if the amounts paid or security provided are returned or released. In that case, the CRA will ask for a jeopardy order at the court to allow the CRA to keep the amounts paid or the security provided.
- Security provided or amounts paid by non-resident persons for amounts in dispute regarding the disposition of particular types of taxable Canadian properties and Canadian resource properties.
- For debts under the *Income Tax Act* that are not subject to collection restrictions, such as payroll deduction debts, and for debts assessed under the other acts.

Requirement and acceptance of security

We will accept security instead of payment under some circumstances.

For example, if the Tax Court of Canada or the Canadian International Trade Tribunal dismisses your appeal and you decide to appeal to a higher court, we will ask you to immediately pay the full amount owing regardless of your rights to appeal. However, we will accept security instead of

payment, such as a bank letter of guarantee, a bank letter of credit, or mortgages.

Under the *Excise Act 2001*, we may require security instead of payment for outstanding amounts that are over \$10 million. You must provide the security within 60 days from the date that we require it. If security is not provided, we can collect an amount equal to the required amount of security.

In addition, for certain elections under the *Income Tax Act*, you have to provide adequate security for us to accept the election.

You or your representative should contact your assigned collections officer for more information about security, such as mandatory clauses for bank letters of guarantee or mortgages. If you cannot reach your collections officer, call us at **1-888-863-8657**.

Special collections provisions

It is our policy to approach tax compliance consistently and responsibly. There are cases when we must use the enforcement provisions of the *Income Tax Act*, the *Excise Tax Act*, the *Softwood Lumber Products Export Charge Act, 2006*, or the *Excise Act 2001* because our ability to collect taxes has been, or is likely to be, defeated by the transfer, sale, loss, relocation, or other disposition of a person's assets.

Collections in jeopardy

When we have reasonable grounds to believe that the collection of all or part of an amount we have assessed would be jeopardized if there were a delay in collecting it, we can take action. Under the *Income Tax Act*, the *Softwood Lumber Products Export Charge Act, 2006*, and the *Excise Act 2001*, a judge of a superior court of a province or of the Federal Court of Canada can authorize us to take collections action immediately. When we are granted such an authorization, you have the right to apply to a court for a judicial review.

Under the *Income Tax Act*, since we are not restricted from taking collections action for payroll or other source deduction amounts (trust funds), we do not have to apply to the courts before we take such action.

A similar provision is available under the *Excise Tax Act* for amounts other than GST/HST amounts under Part IX, with the exception that the minister of national revenue or a delegated authority may approve the action. We do not have to apply to the courts before we take such action on GST/HST amounts under Part IX that have already been assessed. However, for the net tax of a reporting period that is required to be sent, but is not yet payable, the CRA can apply to a judge of the superior court of a province or the Federal Court to obtain judicial authorization to assess the amount determined by the minister of national revenue to be remittable by a registrant when the application is heard and to take action to recover that amount.

If we believe that you have left or are about to leave Canada, we can require you to immediately pay all amounts owed, whether or not they are due at the time. If you do not make the payment, we can seize your goods and chattels.

For more information, go to cra.gc.ca/collections and select "Collections of tax debts in jeopardy" in the Related links section.

Property transfer

If you owe an amount for the current tax year or reporting period in which you transfer property, or for previous tax years or reporting periods, the following rules apply under section 160 of the *Income Tax Act*, section 325 of the *Excise Tax Act*, section 96 of the *Softwood Lumber Products Export Charge Act, 2006*, and section 297 of the *Excise Act 2001*.

Under the above conditions, if you transfer property to:

- a spouse or a person who has since become your spouse
- a person under 18 years of age
- a person with whom you were not dealing at arm's length

the person to whom you transferred the property becomes liable for the lesser of the amount you owe; or the excess of the fair market value of the property, minus any consideration given for the property.

This rule does not apply to a transfer of property between you and your spouse under a decree, order, or judgment of a competent tribunal, or under a written separation agreement where, at the time of transfer, you and your spouse were separated and living apart as a result of the breakdown of your marriage (including a common-law relationship).

Prosecution for failing to file a return

If you fail to file a return when required under the *Income Tax Act*, Part IX (GST/HST) of the *Excise Tax Act*, or the *Air Travellers Security Charge Act*, you are guilty of an offence. If you are convicted, you are liable to a fine of between \$1,000 and \$25,000, or both a fine and imprisonment for up to 12 months. For failure to file returns other than GST/HST returns, the *Excise Tax Act* provides for a fine of between \$10 and \$100. Under the *Excise Act 2001*, the liability on summary conviction to a fine is not more than \$100,000 or to imprisonment for a term of not more than 12 months, or both.

Amounts owing by estates of deceased persons

If a deceased person's estate has amounts payable, we will contact the executor, administrator, or other legal representative of the estate and ask for payment of the amounts. If the executor or administrator does not comply, we may take legal action to collect the debt.

Applicable to the 2016 and later tax years, where an election has been filed under subsection 104(13.4) of the *Income Tax*

Act, the trust is jointly liable with the deceased person's estate for the tax resulting from the election. As a result, we can issue a joint liability assessment to the trust for this tax.

Before distributing the assets of an estate, the executor or administrator must get a clearance certificate from us. The certificate will state that all amounts assessed, or liable to be assessed, have been paid or secured by the estate.

If executors or administrators distribute some of the assets of the estate before they get a clearance certificate, they will be liable, to the extent of the value of the assets distributed, for any amounts that have not been paid or are assessed later. For more information, go to cra.gc.ca/deceased.

Tax Treaties – assistance in collection

If you leave Canada without resolving your tax debts, the CRA may request collection assistance to recover your outstanding tax debts from a country with which Canada has negotiated a tax treaty containing a bilateral Assistance in Collection agreement. The CRA can also pursue the collection of tax debts in Canada on behalf of the countries with which a tax treaty containing a bilateral Assistance in Collection agreement exists. For more information, go to cra.gc.ca/treaties.

Confidentiality

To preserve the right to confidentiality, we will only release your confidential information to your authorized representatives, or as the law authorizes us. It is our policy to confirm the identity and authorization of all parties concerned before we release your information. However, if it is necessary for us to take legal action, the related legal documents will contain certain aspects of a person's tax liability, such as the amount and type of debt owed.

Taxpayer Bill of Rights

The *Taxpayer Bill of Rights* is a set of 16 rights confirming that the CRA will serve taxpayers with a high degree of accuracy, professionalism, courteousness, and fairness. It will make it easier for you to understand what you can expect in your dealings with us, that you will be treated fairly under clear and established rules; and that you can look forward to high standards of service in all your interactions with us.

The CRA is committed to respecting your rights. If you are not satisfied with the service you receive from us, you can file a complaint with CRA Service Complaints and we will provide you with an explanation of our findings. If you are not satisfied with the outcome of our review, you can file a complaint with the federal taxpayers' ombudsman.

You can get more information about these two redress initiatives by visiting Make a service complaint and the Taxpayers' Ombudsman Web site.

Comments

If you have comments about this circular, please write to us at:

Collections Directorate
Collections and Verification Branch
Canada Revenue Agency
395 Terminal Avenue, 6th floor
Ottawa ON K1A 0L5