

Extension of Tax Reassessment Periods and Appeal Deadlines

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On July 27, 2020, as part of Canada's continued response to the COVID-19 pandemic, Bill C-20 received Royal Assent and came into effect, enacting the *Time Limits and Other Periods Act (COVID-19)* (the "**Time Limits Act**").

We covered the initial draft legislation, as proposed on May 19, in our previous blog post.

Extension of Normal Reassessment Period

As discussed in our prior release, the Canada Revenue Agency (the "**CRA**") can normally reassess a taxpayer within three years following the date of the original assessment for income tax, or four years following the date that the GST/HST return was filed. Once this period is over, the CRA is generally prevented from reassessing unless they can establish that, among other things, the taxpayer made a negligent misrepresentation or committed fraud.

The Time Limits Act gives the Minister of National Revenue the power to retroactively extend reassessment limitation periods, and certain other periods, that would have otherwise expired between March 13, 2020 and December 31, 2020. The Minister must make a public announcement prior to September 30, 2020 for an extension order to take effect. Extensions cannot exceed six months, and limitation periods cannot be extended beyond December 31, 2020.

Based on statements from senior CRA officials, we anticipate that the Minister of National Revenue will only order the extension of periods that ended on or after May 19, 2020, when the Time Limits Act was first proposed. Practically speaking, a limitation period that would otherwise have expired on May 19, 2020 may not become statute barred until November 20, 2020. The exact time frame will become clear once the Minister exercises her discretion under this legislation.

However, a limitation period that would have otherwise expired after June 30, 2020 can only be extended to December 31, 2020. The Time Limits Act cannot affect a limitation period that expires on or after January 1, 2021.

Appeal Timelines Extended

The Time Limits Act also permits taxpayers to take advantage of temporarily longer periods for appealing to the Tax Court of Canada and Federal Court of Appeal ("**FCA**"). Normally, after a taxpayer has objected to a reassessment, the taxpayer has 90 days to appeal a decision from the CRA's Appeals Division to the Tax Court. Following a judgment of the Tax Court, the taxpayer has 30 days to appeal to the FCA.

The Time Limits Act suspends these appeal deadlines for the period between March 13, 2020 and September 13, 2020, effectively extending the time to appeal until September 14, 2020. While the federal cabinet retains the discretion to abridge the extension period, we anticipate that such discretion will not be exercised for appeals to the Tax Court and FCA.

The Time Limits Act, as enacted in Part 3 of Bill C-20, is located [here](#).

For more information, please contact a member of our Tax Controversy/Tax Litigation Group.

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