

Tax Disputes Amidst COVID-19

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In these times of uncertainty due to the pandemic, you may be wondering about the implications to your current audits and tax disputes with the Canada Revenue Agency ("CRA"). Although the situation is fluid and changing rapidly, here is what we know so far.

CRA Audits

On March 18, the CRA announced that it will not initiate any new audits for the next four weeks (*i.e.* until approximately April 15). For almost all businesses (other than large corporations), the CRA also said that it will temporarily suspend ongoing audit interaction with taxpayers and their representatives. If you were under audit before March 18, we anticipate delays in communicating with the Audit Division as most CRA offices are closed until April 5. We understand that some CRA employees are working remotely during this closure, but that personnel are being diverted to core functions such as processing benefit and credit payments in order to grant relief needed at this time. We anticipate that the closure of CRA offices and suspension of audit activity will likely be extended beyond the currently announced timelines.

CRA Objections

For taxpayers who have filed a Notice of Objection to a reassessment, these objections are currently being held in abeyance by the CRA. It is not yet clear how long this abeyance will last, but likely until the CRA reopens its offices. Practically speaking, we anticipate further delays in processing Objections and communicating with the Appeals Division. Before the pandemic occurred, it was taking between four to 12 months from the date of filing (depending on the type and complexity of the Objection) for an Appeals Officer to be assigned to review the file. These delays will increase.

Tax Court Appeals

On March 23, Chief Justice Rossiter announced that the Tax Court of Canada will close until May 1, 2020. As part of the announcement, the computation of time has been suspended between March 16 and May 1, 2020 (the "Suspension Period") with respect to all procedural Rules within the Tax Court's jurisdiction, including the *Tax Court of Canada Rules (General Procedure)*. The computation of time has also been suspended until May 1 with respect to Tax Court Orders made prior to March 16, 2020. This means that any litigation timelines in a current Tax Court proceeding are extended by the length of the Suspension Period. Practically speaking, there will be little to no movement on Tax Court appeals (such as examinations for discovery, filing lists of documents and communicating with the DOJ) until the Suspension Period is over.

During the Suspension Period, the Tax Court cancelled all judicial sittings and conference calls. The Chief Justice will assess on April 14, 2020 whether further time alterations or hearing cancellations are necessary. We presume that the Tax Court will reschedule cancelled hearings based on availability in 2021, since the Court's hearing schedule is already full for 2020 (and the first few months of 2021).

Although the Tax Court's Registry offices are closed during this period, we understand that registry officers are working remotely and will directly contact parties affected by the cancellation of judicial sittings and conference calls.

Filing Objections and Appeals Still Necessary

It is important to note that time continues to run for all statutory limitations (such as those under the *Income Tax Act* and *Excise Tax Act*) since the Tax Court does not have the authority to amend legislation. You will therefore need to object or appeal within the statutory timelines to protect your rights. Thus far there has not been any indication of potential legislative amendments by Parliament to the objection or appeal limitation deadlines, although we remain alert to the possibility.

Despite the closure of certain CRA offices, taxpayers must still submit Objections on time. These can still be filed in the normal manner. Appeals to the Tax Court can be filed electronically through the Court's website. The Tax Court will process the filing when the registry offices reopen.

Suspended CRA Collections on New Tax Debts

Finally, and in addition to previously announced measures, the CRA announced on March 21, 2020 that it will not engage in any enforcement action on new debts until further notice, and will be addressing pre-existing situations on a case-by-case basis. It is not clear when collection action will resume (or what "new debts" mean exactly), but practically speaking, we expect that most collection action will not continue until the CRA can reopen its offices. Although not addressed in the announcement, we presume that interest will continue to run on tax debts despite the temporary suspension of collection action.

Ontario has not announced any limitations on collection action for the taxes it levies as of the date of this release. In a subsequent Tax News Flash, we will provide an update on Ontario's COVID-19 tax proposals from March 25, 2020.

If you have received any communications from the CRA or the Ontario Ministry of Finance indicating that you may owe more tax than you believe is correct, we encourage you to reach out to our tax dispute specialists as soon as possible.

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