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Your Guide to Tax-Saving Strategies

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TAXSTRATEGY

That Thin Brown Envelope has **BAD News**

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The month of May can be a wonderful time. Spring is in full force, and tax time is over. Many of you will have received your Notice of Assessment in the mail, neatly contained in a thin brown envelope. Some of you may be doing your happy dance with a favourable Notice of Assessment. If you are not one of the lucky ones, and your Notice of Assessment has brought some bad news from the CRA, then you might be interested in the following discussion.

What to Do? If your Notice of Assessment is unfavourable, the first thing you must do is find out why CanRev has disallowed a claim or otherwise increased your taxes payable. If there's a difference between your figures

and CanRev's, it's quite possible that no one has even looked at your return beyond a keypunching clerk. You have a legal right to appeal your case and, more importantly, if you do this properly, you stand a very good chance of winning.

The first place to look is on Page 1 of your notice, which is captioned "Explanation of changes and other important information". In the vast majority of cases, this explanation is computer-generated -- and much of the "explanation" you find on the page may actually have nothing much to do with the discrepancy.

In fact, at this stage, the vast majority of problems relate to some type of clerical error. If your return has not been prepared using a computer program you may have made an error, or perhaps a CanRev clerk has simply punched in the wrong number. In other cases, there may be problems with the application of

installment remittance (e.g., they've applied it to the wrong year or, worse still, a different taxpayer). Other discrepancies: there may be a late filing penalty even though you filed on time, or a manual check of your return did not reveal a receipt.

When reading the Explanation of Changes, look for something that "doesn't ring a bell", especially if there are numbers shown in the particular paragraph.

If, after reading the Explanation of Changes, you still don't know what's going on, then take a look at the "Summary" calculations contained in the notice. On the left-hand side of the page, you will see key "boxes" (data fields) in your tax return, with CanRev's calculations on the right-hand side of the page. Compare these to your return on a line-by-line basis, and you should be able to zero-in on where the discrepancy is.

If you still don't know what's going on, one option is to call the folks at your Tax Services Office and ask them (of course, another option is to go to an accountant). The Notice of Assessment itself provides a phone number to request an "explanation" -- even though the Notice itself purports to give one.

Don't assume that, when you get through to a tax auditor on the line, you are dealing with an expert on the matter in question. This simply isn't the case. In many cases, the CanRev employees who staff the infor-

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mation lines may not have particular expertise in your problem and will certainly not be familiar with your tax return.

The Next Step: Once you understand the problem and you think that you're in the right, your next step is to contact CanRev itself. You may do this in writing by sending your enquiry to the Tax Centre to which you sent your return to the attention of the Enquiries and Adjustments Division at the address on the front of the notice. Requests by telephone or personal visits should be directed to the Tax Services Office which serves your area. The Notice of Assessment itself indicates that if the problem can't be resolved, you can contact the tax office's "Problem Resolution Program." The phone number is listed in the government pages – there is a separate listing under the name of each tax services office.

If the matter is straightforward and in your favour, so that it could be resolved on the spot, a visit to the Tax Services Office may be a good way to go. You should have your Notice of Assessment and your copy of your return with you. The CanRev official will pull up your return, key in the adjustment and you're finished. Sure beats waiting for weeks for them to respond to a letter. However, if the matter is more complicated, a letter may be a better way to go.

Prior to 2006, once a Notice of Assessment was received, collection procedures could only commence after 90 days from the mailing date on the Notice unless you had filed a Notice of Objection. However, new rules eliminated the 90-day waiting period so that the minister may

now comment collection procedures immediately.

Although some people go straight to a Notice of Objection (more on this procedure later), contacting the Enquiries and Adjustments section will give you an extra "kick" at CanRev, just in case there's a problem. Note: The collection procedures should stop if a Notice of Objection is filed on a timely basis. However, interest will continue to run on the outstanding amount.

When contacting the CRA, I suggest the following:

- If you write a letter, put "Re: [your name]; [Social Insurance Number] - 2015 Notice of Assessment" prominently at the top of the letter; in most cases, you should state that there has been an incorrect assessment; give the line number, the previous amount, the amount of the adjustment and the revised amount. Don't forget to include your phone number and name and address.
- Provide any reasons or details and whatever backup documentation may be relevant, even if you have already included it with your tax return. What you want to do is give the CanRev adjuster a "self-contained package" so that he or she can zero in on the problem.

In general, you should keep your correspondence with CanRev factual and to the point. CanRev's interest is in resolving the dispute as quickly as possible. They don't want to hear your life story, or what you think of the government and our tax system.

CanRev will, as a matter of standard procedure, reassess returns if the adjustment

relates to an error in arithmetic or a misunderstanding of the facts. If your dispute is based upon a different interpretation of the law, you have to file a Notice of Objection.

In many cases, your letter to CanRev may be sufficient to clear up the matter in your favour. But if it becomes necessary to actually talk to a CanRev auditor, always be courteous and to the point. I am convinced that a great many serious disputes with CanRev arise because of personality conflicts -- where someone draws the ire of a CanRev auditor. Getting along well with CanRev goes a long way towards success.

The Notice of Objection

If you're still having difficulties, the next stage is to prepare a Notice of Objection. At this point, your tax file is starting to get serious.

Unincorporated individuals have until April 30 of the second year following the year in question to file a Notice of Objection (or 90 days after the date of the Notice of Assessment or Reassessment, if this is later). In plain words, you have until April 30, 2017 to file a Notice of Objection for 2015. For corporations, trusts or other taxpayers other than individuals, the filing deadline for a Notice of Objection is 90 days from the date of the Notice of Assessment. If the matter is not favourably resolved by the deadline, I suggest that you file a Notice of Objection – even if you feel you are on the way to resolving the matter.

A Notice of Objection must be in writing and must outline your reasons for objecting to the CanRev's assessment; it

must also adequately identify you (through your Social Insurance Number) and the assessment (particularly as to taxation year) to which you object. Your objection need not be sent by registered mail; it will be sufficient if the Notice of Objection is addressed to the Chief of Appeals in a Tax Services Office or a Tax Centre of CanRev and delivered or mailed to that office.

It is no longer necessary to file Revenue Canada's actual form -- T400A. Even so, I still recommend that you use it, rather than simply writing a let-

ter, mainly because I think that most CanRev employees are more "comfortable" dealing with a form, rather than a letter, which may be perceived as open-ended. The actual information required on the Notice of Objection form is quite straightforward: name, SIN, and so on.

But the key to your claim is a box area marked "Statement of Facts and Reasons". To fight CanRev and win, you must base your claim on proper technical grounds. You should keep your arguments to the point and brief. You should insert enough facts to support the reasons (that is, the

technical grounds) for your objection. For example, if you are trying to support a case for interest deductibility, the general rule is that the borrowing must actually be used for business or investment purposes. So you should outline the details and use of the loan, particulars of the investment made with the funds, and so on.

At this stage, you should seriously consider hiring a tax advisor to do your Notice of Objection, especially where there's a lot of money involved or there are relatively complicated technical issues. □