

The TaxLetter®

Vol. 28, No. 4

Your Guide to Tax-Saving Strategies

Single Copy: \$10.00 April 2010

TAX-FILING TIPS

You've had second thoughts about your return...

Now what?

Samantha Prasad LL.B.

Another tax season has almost drawn to a close. Tax returns have been filed, we hope, and taxes have been paid.

If you have filed already you may have realized (or rather your accountant) calls you up to tell you that your tax return wasn't entirely correct.

It could have been a simple mistake, like forgetting to claim a deduction. Happily there is a process that will allow you to request a change to your return.

CanRev's preference is that you do not file an amended income tax return in these circumstances. Instead, you should write to the Tax Centre to which you filed your return, with an explanation and any additional material such as T4 slips, T5 slips and receipts requesting a change.

The CRA also prefers that you

include form T1-ADJ (available on its website www.cra-arc.gc.ca).

Alternatively, you can go to the CRA's website and make changes to your return through its electronic service.

Don't forget to include your Social Insurance Number or Identification Number. If you want to discuss your return or assessment in person you may bring your own copy of the return and assessment to your Tax Services Office.

If you think it is necessary to have the return you actually filed, get in touch with your Tax Services Office to arrange for them to obtain the file from the Tax Centre – in some cases this may take a fair amount of time.

If you receive a Notice of Assessment and do not formally object to it within 90 days of its mailing date (or within one year of the due date of the T1 return to which the assessment relates, whichever is later) you are technically bound by it. Happily though, the CRA's current policy

is that you can apply for a change going back 10 years (this is under the so-called "fairness package" introduced in the early nineties).

But if you apply for a change within three years of your taxation year, the CRA will normally just process your adjustment (exceptions may apply when the change you requested is in respect of permissible deductions, such as Capital Cost Allowance, or if it is based on a recent court case in which the taxpayer was successful).

You may have discovered an error in your favour and reported it to the CRA, but the 90-day/one-year time limit will expire before a reassessment is received. In this case, you may wish to file a Notice of Objection to protect your rights.

Some years ago, the CRA compiled a list of the ten most common errors that Canadians make on their tax returns. To avoid having to request an adjustment outside of the 90 day/one year time limit, take a glance at your return to make sure you don't also fall prey to the following common mistakes:

✎ Mathematical errors, such as adding and subtracting incorrectly.

✎ Forgetting to reduce income by identifying amounts received for workers' compensation, social assistance payments, and net federal supplements.

✎ Claiming provincial tax credits incorrectly, by not calculating provincial tax credit forms properly.

Samantha Prasad, LL.B., is a tax partner with the Toronto-based law firm Minden Gross LLP, a member of Meritas Law Firms Worldwide, and a Contributing Editor of The TaxLetter, published by MPL Communications.
sprasad@mindengross.com

✚ Forgetting to indicate pension adjustments. This affects unused registered retirement savings plan deduction room for the next year.

✚ Claiming an incorrect goods and services tax/harmonized sales tax (GST/HST) credit, by using incorrect spousal income amounts.

✚ Entering the wrong amount on the lines of the tax return that refer to contributions and overpayments to the Canada Pension Plan, Quebec Pension Plan, and Employment Insurance.

✚ Claiming incorrect amounts as RRSP contributions.

✚ Forgetting to claim the basic personal amount.

✚ Claiming the spousal amount incorrectly.

✚ Not claiming, or incorrectly claiming, the age amount.

Other miscellaneous errors or omissions to look out for include failure to pick up credits and/or deduction carry-forward balances from previous years (i.e., expenses related to home workspace, medical expenses, equivalent-to-spouse credits, capital and non-capital losses etc). Or forgetting to file an RRSP or charitable donation receipt. Or failing to transfer credits to your spouse if you can't use them.

To make an adjustment simply search "T1 adjustment" on the CRA website.

Notice of Assessment – 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.

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 one of your notice, which is called "Explanation of changes and other important information." In the majority of cases, this explanation is computer-generated – and the "explanation" you find on that page may actually have nothing much to do with the discrepancy.

In fact, at this stage, most problems relate to some type of clerical error. If your return has not been prepared by 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. For example, 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 may not have revealed a receipt.

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

If you still haven't gotten to the bottom of things, 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 line-by-line, and you should be able to zero in on the discrepancy.

If you are still unclear, one option is to call the folks at your Tax Services Office and ask them. Or, of course, you can go to an accountant.

The Notice of Assessment itself provides a phone number you can call to request an "explanation" – even though the notice itself purports to give one.

Don't assume that when you get through to a live person on the phone you are dealing with an expert on the matter in question. This simply isn't the case. The CanRev employees staffing the information lines may not have the specific answers to your particular problem. They will certainly not be familiar with your tax return.

The Next Step

When you understand what went wrong, and you think that you're in the right, your next step is to contact CanRev. You can do this in writing by sending your enquiry to the Tax Centre to which you sent your return. Make it out to the attention of the Enquiries and Adjustments Division at the address on the front of your Notice of Assessment.

Requests by telephone or personal visits should be directed to the Tax Services Office which serves your area.

The notice itself indicates that if the problem cannot 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, it could

be resolved on the spot. A visit to the Tax Services Office may be a good way to proceed, if you can afford the time.

You should have your Notice of Assessment and a 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.

Once a Notice of Assessment is received, collection procedures may commence immediately. However, the collection procedures should stop if a Notice of Objection is filed on a timely basis.

Although some people go straight to a Notice of Objection, contacting the Enquiries and Adjustments section will give you an extra "kick" at CanRev, just in

case there's a problem.

When contacting the CRA, I suggest the following:

✎ If you write a letter, put "Re: [your name]; [Social Insurance Number] - 2009 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.

✎ 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 Can-

Rev factual and to the point.

CanRev's interest is in resolving the dispute as quickly as possible.

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 – usually when someone draws the ire of a CanRev auditor. Getting along well with CanRev goes a long way towards your success. □