

## What happens after you file that tax return (May 2010)

By now, most Canadian taxpayers (excepting the self-employed and their spouses, who have until June 15) will have filed their 2009 income tax returns. Once the Canada Revenue Agency (CRA) has processed those millions of returns, taxpayers across Canada will begin to receive Notices of Assessment for 2009 over the next few weeks and months. In most cases, the Notice of Assessment issued will simply confirm the information which the taxpayer provided on the return, perhaps with some minor arithmetical corrections. However, not infrequently, the Notice of Assessment will indicate that the CRA has disallowed or changed the amount of certain deductions or credits, or has included in income amounts not declared by the taxpayer on his or her return. When that happens, it's time for the taxpayer to decide whether to dispute the CRA's assessment of their tax situation.

Sometimes the CRA will contact the taxpayer even before the return is assessed, to request further information or documentation of deductions or credits claimed (e.g., information on the custody of a child where one parent has claimed an equivalent to spouse deduction, or receipts documenting child care expenses claimed). In all cases, the best thing to do is respond to such requests promptly, and to provide the requested documents or information. The CRA can assess only on the basis of information with which it is provided, and where a request for information or supporting documents for a deduction or credit claimed is ignored by the taxpayer, the assessment will proceed on the basis that that such support does not exist. Providing the requested information or supporting documents can often resolve the question to the CRA's satisfaction, and the assessment of the taxpayer's return can then proceed.

If the CRA has issued an actual Notice of Assessment, and it indicates that the CRA's assessment differs from the information provided by the taxpayer on the return, the first thing to consider is why the CRA does not agree with the return as filed. In some cases, it's very simple – for instance, the CRA has included in income an amount received by the taxpayer but not reported, perhaps because the related information slip was mislaid or never received. In such cases, disputing the Notice of Assessment really doesn't make sense. Although it's common for taxpayers to think that if they didn't receive an information slip, they don't have to report the income, that's not the case. Each taxpayer is responsible for keeping track of and reporting his or her own income, regardless of any administrative or other errors which may result in the taxpayer not receiving an information slip.

If the source of the disagreement is not as straightforward, the next step is for the taxpayer to contact the CRA to indicate that they disagree with the assessment and to provide the reasons for their disagreement. Taxpayers can visit their local Tax Services Office (TSO) (a listing of such offices is available on the CRA Web site at <http://www.cra-arc.gc.ca/cntct/tso-bsf-eng.html>) to meet with a CRA representative. The CRA does not provide "walk-in" service at their TSOs, and so it's necessary to call ahead to make an appointment, and to bring a copy of the return filed and the Notice of

Assessment to the meeting. Taxpayers can also write to the CRA to dispute the Notice of Assessment, and any such letters should be sent to the Tax Centre at which the return was originally filed. In many cases, a face-to-face meeting with a CRA representative, with all the relevant documents in front of you, can move things along more quickly than a letter to the Tax Centre.

If the situation still isn't resolved by a meeting, it's time for the taxpayer to consider filing an Objection. Filing such an Objection formally advises the CRA that the taxpayer is disputing his or her tax liability for the taxation year in question. Not incidentally, the filing of an Objection also brings to a halt any efforts undertaken by the CRA to collect taxes which it considers owing for the taxation year under dispute (although, if the taxpayer is eventually found to owe the amount in dispute, interest will have accumulated in the interim). The Objection must be in writing and must outline the taxpayer's reasons for objecting to the CRA's assessment. The CRA will also need the taxpayer's social insurance number and the taxation year for which the assessment is being disputed must be identified. The CRA provides a standardized form - the T400A Objection (available on the Agency's Web site at <http://www.cra-arc.gc.ca/E/pbg/tf/t400a/README.html>) and, while the use of the CRA's form is not obligatory, it's a good idea. Using the standardized form will make it clear to the CRA that a formal objection is being filed, will present the necessary information in a format with which the Agency is familiar, and will also mean that no required information is inadvertently omitted. It's also helpful to include a copy of the Notice of Assessment which is being disputed. Since the CRA does not always acknowledge receipt of an Objection, ensuring delivery by sending it by registered mail should be considered. The Objection should be sent to the Chief of Appeals at the taxpayer's TSO or the Tax Center at which the return was originally filed.

There is a time limit by which any Objection must be filed, albeit a reasonably generous one. Individual taxpayers must file an Objection by the later of 90 days from the mailing date of the Notice of Assessment (the date found at the top of page 1) or one year from the due date of the return which is being disputed. So, for 2009 tax year returns, the one-year deadline (which is usually, but not always, the later of the two dates) would be April 30, 2011 (or June 15, 2011 for self-employed taxpayers and their spouses). As with most things related to taxes, it's best not to put it off. At the very least, if the taxpayer is ultimately found to owe some or all of the taxes assessed by the CRA, interest will have accrued on those taxes for the entire period since the filing due date and, if the filing of the Objection is delayed, the CRA will certainly have commenced its collection efforts.

Eventually (at least several weeks being the usual time frame) the CRA will respond to the Objection, by either confirming the original assessment or adjusting the tax return and issuing a Notice of Reassessment. In the course of making its decision, the Agency may or may not contact the taxpayer for further discussions of the issues in dispute. Should the taxpayer be contacted, he or she may be asked to provide representations outlining his or her position, in writing or at a meeting. Through such representations and meetings, it may be possible for the taxpayer and the CRA to come to an

agreement on the taxpayer's tax liability. In either case, the CRA will either confirm its original assessment or change it. If the original assessment is changed, the CRA will issue a Notice of Reassessment outlining the changes. If the taxpayer continues to disagree with the CRA's position, the next step is an appeal to the Tax Court of Canada. While in many instances taxpayers are allowed by law to represent themselves before the Tax Court, it's generally a good idea, once things reach his point, to consult a tax lawyer before taking that next step.

In some cases, it's the taxpayer who discovers, after the return is filed, that information has been inadvertently misstated, or perhaps amounts have been omitted where an information slip was received after the return was filed. In such situations, the taxpayer is often at a loss to know how to proceed, but the process for amending a return is actually quite straightforward. The first reaction in such circumstances is sometimes simply to file another, corrected return, but that's not the right solution. Instead, the taxpayer should wait until a Notice of Assessment is received in respect of the return already filed, and then file a Notice of Adjustment with the CRA, making the necessary corrections. A Notice of Adjustment can be filed in a number of ways. The easiest and quickest way of doing so is through the CRA's Web site, but that option is available only to taxpayers who have obtained an e-pass. While getting an e-pass isn't difficult (the steps to be taken to do so are outlined on the Web site at <http://www.cra-arc.gc.ca/esrvc-srvce/tx/psssrvcs/menu-eng.html>), it does take a few weeks to complete the process. Taxpayers who don't want to deal with the CRA through the Web site, or who don't think it's worth obtaining an e-pass just to deal with the Agency on a single issue, can obtain hard copy of the T1 Adjustment form from the CRA Web site at <http://www.cra-arc.gc.ca/E/pbg/tf/t1-adj/t1-adj-08e.pdf> and fill it out. The use of the actual form isn't mandatory—a letter to the CRA is an acceptable alternative—but, as with an Objection, the use of a standardized form has two benefits. First, it makes it clear to the CRA that an adjustment is being requested, and second, filling out the form will ensure that the CRA has all the information necessary to process the requested adjustment. Once the form or letter is completed, it should be mailed or faxed to the Tax Center to which the original return was sent. A taxpayer who is no longer sure where that was can go on to the CRA Web site at <http://www.cra-arc.gc.ca/cntct/tso-bsf-eng.html> and, by selecting his or her location from a drop-down menu of provinces and cities, can obtain the address of the Tax Centre to which the adjustment request should be sent.

The CRA also publishes a useful pamphlet entitled "Resolving Your Dispute: Objection and Appeal Rights under the *Income Tax Act*", and that publication can be found on the CRA Web site at <http://www.cra-arc.gc.ca/E/pub/tg/p148/README.html>.

A final note—many taxpayers, when they receive a Notice of Assessment and determine that the CRA agrees with their return as filed, consign the Notice to the nearest garbage can or recycling container. This is not a good idea. A Notice of Assessment, in addition to outlining the CRA's assessment of the taxpayer's income and tax position for the year, contains useful and necessary information on the taxpayer's RRSP current year and carryforward contribution amounts and limits and, beginning this year, information

on the taxpayer's allowable contribution limits for Tax-Free Savings Accounts. The Notice of Assessment should be treated as part of a taxpayer's tax records, and filed away accordingly.