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In this issue of the Canadian Tax Planners Newsletter, we shall review strategies for resolving issues with CRA. Topics will include:

- common penalties assessed by CRA and how to avoid them
- strategies taxpayers can use to eliminate or reduce interest and penalties that may be assessed by CRA
- changing a tax return after it has been filed
- reassessment periods
- resolving audits issues
- objecting to a tax reassessment
- using the services of the Tax Ombudsmen

### Penalties and Interest

Certain actions or non-actions by a taxpayer can result in a penalty being assessed by CRA. We shall summarize a number of the common penalties and suggest some strategies that can be taken by taxpayers to reduce or eliminate the penalty.

**Failure to file a Tax Return** – A taxpayer who fails to file a tax return on time may be subject to a penalty of 5% of the taxes payable plus 1% per month to a maximum of 12 months. If a tax return is requested and the individual still does not comply, the penalty increases to 10% of the unpaid taxes and 2% per month to a maximum of 20 months. Although not commonly used, taxpayers who do not file a return could also face criminal charges and upon conviction could receive a fine of between \$1,000 and \$25,000, plus up to 12 months in prison.

If the taxpayer is considered a habitual late filer, the amount of the penalty can be doubled. For example, if CRA charged a late filing penalty on a tax return for 2006, 2007, or 2008, the late-filing penalty for 2009 may be 10% of the 2009 balance owing, plus 2% of for each full month that the return is late, to a maximum of 20 months.

Individuals may decide not to file a tax return by April 30<sup>th</sup> as they lack the funds to pay the outstanding balance or they are missing a piece of information that is necessary to be included with the tax return. In such

cases, consider filing the return by the due date even if the taxes remain unpaid. Filing on time avoids the 5% late filing penalty although interest will be charged on outstanding amounts.

**Late Filing of a Return** – If a tax return is due on April 30, CRA will start charging compound daily interest on the unpaid balance as of the first day of May. The rate of interest is known as the prescribed rate of interest and it is set quarterly. If a taxpayer has amounts owing from previous years, CRA will continue to charge compound daily interest on those amounts. Any payments made by the taxpayer are first applied to amounts owing from previous years.

**Knowingly Filing a False Statement** – If a taxpayer is negligent, the penalty is 50% of the tax that was avoided. CRA may also lay criminal charges and the penalty upon conviction is a fine of up to 200% of the tax avoided and a maximum prison term of five years.

**Insufficient Tax Instalments** – If taxpayers have not paid the required instalments, they will be subject to an interest charge. Individuals have to pay income tax instalments for 2010 if their net tax owing was more than \$3,000 in 2010 and in either 2009 or 2008.

Instalment payments for 2010 are due March 15, June 15, September 15 and December 15, 2010. There are two exceptions to these rules:

- individuals that live in Quebec at the end of the year, use a limit of \$1,800 of taxes owing, rather than \$3,000
- different rules apply to individuals whose main source of income is self-employment income from farming or fishing

CRA will normally send taxpayers a notice that outlines their instalment requirements for the upcoming year.

**Note** – The remainder of this article is only available to subscribers of the Canadian Tax Planners Newsletter. If you elect to subscribe and wish to receive a copy of this newsletter, advise us accordingly and the complete article will be forwarded by return mail.