

Timely Assessment of Income Tax Returns

Background

Under the Canadian taxation system, taxpayers (individuals, corporations and trusts) are required to file income tax returns and pay income taxes due within time lines clearly set out by the *Income Tax Act* ("the Act"). If a taxpayer fails to meet the time lines set out by the Act, harsh penalties and interest apply.

On the contrary, the Canada Revenue Agency ("the CRA") is under no set time line to assess a taxpayer's income tax return. Rather, they are only required to assess a taxpayer's return "with all due dispatch", which in practice can mean a few weeks, months or even years.

Having the CRA accountable for timely assessment of returns is important for a number of reasons, including:

- Cash flow - many taxpayers are experiencing some of the most difficult economic times in recent memory and cash flow is key to their economic survival. A delay in assessment delays the taxpayer's ability to recover overpaid tax
- Refund Interest - recently the rate of interest on corporate refunds of tax was reduced by two percent, whereas the rate of interest on taxes due was not changed. Part of the rationale for this change was that taxpayers were seeking a better rate of return on their cash than they could obtain in the market by overpaying tax. In reality, however, most businesses – in particular small businesses – will earn a better rate of return using their cash in their business
- Reassessment periods - the period of time the CRA has to reassess a taxpayer is based on their assessment date. If the CRA takes an inordinate amount of time to assess a taxpayer's return, they may also unfairly extend the time of reassessment for the taxpayer.

Recommendation

That the federal government introduce legislation requiring the timely assessment of income tax returns wherein taxpayers' returns are automatically deemed to be assessed as filed (and are duly processed) after 120 days of filing thereby initiating the statute barred period after which reassessment could be issued.