

From the Assistant Deputy Minister's Desk

Welcome to the first electronic edition of *Tax Notes*. The purpose of this newsletter is to provide information about Alberta tax programs, including changes to legislation and policies. It will be successful if it helps us achieve a goal related to service: that is, to help our clients file their returns and claims right, the first time.

Included in this premiere edition is information concerning Alberta-specific issues in the calculation of taxable income, a clarification of penalty/interest waivers, and a progress report on the initiative to simplify the Tax Exempt Fuel User program. I hope you will find the information useful. Your [comments](#) are welcome, as are suggestions for topics for future issues.

Lukas Huisman

Assistant Deputy Minister – Tax and Revenue Administration

Provincial Capital Tax Add-backs

Deducting taxes paid to another Canadian province or territory calculated in relation to a corporation's capital is not allowed for taxation years beginning after March 31, 2001.

Non-deductible taxes include (but are not limited to):

- 1) provincial financial corporations capital taxes,
- 2) provincial large corporations capital taxes, and
- 3) Quebec compensation tax (calculated on capital).

Corporations are required to file an AT1 Schedule 12 (Alberta Income/Loss Reconciliation) when the above applies, reporting the non-deductible provincial capital tax amount on line 42.

For your convenience – electronic payment

Are you wasting precious time and resources? Tax and Revenue Administration (TRA) now accepts your corporate and/or commodity tax payments electronically through the internet payment services provided by most major financial institutions in Canada. For more information, contact your financial institution or call TRA.

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Impact of the *Methanex* Appeal Decision

Computation of Interest when Loss is Carried Back

The effective day for loss application and corresponding payment of tax was the subject of a recent Alberta Court of Appeal action (*Provincial Treasurer v. Methanex Corporation*). Based on the **specific** circumstances of the case, the Court ruled the effective day to be used was the day on which the corporation's loss year return was filed.

Although Alberta Finance, Tax and Revenue Administration (TRA) accepted the Court's decision in the *Methanex* case TRA continues to consider application for a loss carry-back a payment of tax under the *Alberta Corporate Tax Act* (ACTA) with the effective date of

the loss application and corresponding payment of tax, determined by:

- (a) the first day following the taxation year the loss was incurred (the loss year),
- (b) the day on which the corporation's loss year return was filed,
- (c) the day on which an amended return or the prescribed form (AT1 Schedule 10) for the loss application was filed, or
- (d) the day on which a request for the carry-back was made,

whichever is the latest. For more information see [Information](#)

[Circular CT-7, Calculation and Deduction of Losses.](#)

To assist taxpayers to file their returns and claims right the first time, provisions have been introduced in [Bill 26, Corporate Tax Statutes Amendment Act, 2005](#), to clarify the determination of the effective date when an Alberta (re)assessment is issued to parallel a (re)assessment from another jurisdiction.

For more information about Bill 26, see the explanatory item on page 5 (*Bill 26 Highlights* in the Bookmarks tab to your left).

DOING IT RIGHT, THE FIRST TIME:

Completing the Remittance Advice form

Ensure your remittance is credited to the right program. Follow the application instructions appearing on the *Remittance Advice* form, providing:

1. the **Alberta, not federal**, corporate account number or the business identification number (BIN).
2. the Remittance Code for the program you require. If this number is not entered, the amounts automatically default to the corporate tax program (01). For the appropriate program Remittance Code, call Information Services.
3. "Payment for tax year..." means the fiscal period end for which the payment is made, not the month in which the payment is made.

With the volume of remittances received daily TRA cannot contact each applicant to ensure the application is accurately completed. *Statements of Account* should be checked like bank statements and errors reported to Information Services immediately by telephoning (780) 427-3044 in the Edmonton area or 310-0000, then enter (780) 427-3044 for toll free service from anywhere else in Alberta.

With a little extra diligence, you can help us to help you make your remittance the right way, the first time.

How To Contact Us

Please direct all questions about material in *Tax Notes* to Information Services by [e-mail](#) or by telephoning (780) 427-3044 in the Edmonton area or 310-0000, then enter (780) 427-3044 for toll free service from anywhere else in Alberta.

Waivers of penalties/interest

Waivers of

- a late-filing penalty,
- instalment and arrears interest on tax,
- penalties on late or deficient instalments, and
- interest on Alberta Royalty Tax Credit overpayments

are intended to provide relief in circumstances not covered by legislation or administrative policies. They are used only as a last resort.

Guidelines

Penalties or interest may be waived by Tax and Revenue Administration (TRA) where extraordinary circumstances, such as natural disasters, personal tragedies, or the actions of TRA, prevented an entity or its agent from complying with the *Alberta Corporate Tax Act* ("the Act").

TRA must be satisfied that, despite the extraordinary circumstances, the entity made reasonable efforts to comply with the Act. This includes making payments on or before the payment due date.

Federal and provincial distinctions

Canada Revenue Agency (CRA) and Alberta Finance, Tax and Revenue Administration (TRA) are operated by different levels of government. **CRA is federal; TRA, provincial.**

Because CRA and TRA are two distinct organizations, taxpayers who submit information to CRA should not assume it will be shared with TRA. In addition, TRA will not waive penalties or interest on assessments or reassessments based on information from CRA unless the subject corporation has provided the information to TRA.

Waiver procedure differences

Penalties and/or interest can be waived by TRA on corporate, tobacco, fuel tax, and tourism levy assessments. Differences between how CRA and TRA handle penalty and/or interest waivers include:

- CRA may waive penalties or interest on the basis of "financial hardship", while TRA does not.

- TRA is not bound by any CRA decision to waive penalties and/or interest.

- CRA may waive penalties and/or interest for federal purposes if an assessment action is delayed by CRA and the agency recognizes its delay caused the liability for interest or penalties. If TRA has decided to parallel the federal assessment, it will consider waiving interest or penalties for the same time period.

Application for Waiver

In order to apply for a waiver, please send a **written request**, along with:

- the entity's and representative's names and addresses;
- the corporation's Alberta corporate account number or the entity's identification number;
- the taxation years or periods involved;
- a description and amount of the penalty or interest for which the waiver is sought;
- the reasons why the penalty or interest should be waived, supported by applicable documentation and a chronology of events; and
- a description of previous contacts with TRA or other areas of Alberta Finance on the issue to:

**TAX SERVICES
TAX AND REVENUE ADMINISTRATION
9811 109 ST
EDMONTON AB T5K 2L5**

Decisions are final

Each application to waive penalties and/or interest is reviewed in detail. For this reason, the decision is final and cannot be objected to, or appealed.

For more information, see [Information Circular CT-5, Waiver or Cancellation of Penalties or Interest](#)).

REGULATORY CHANGES FALL 2004

TOBACCO TAX AMENDMENT REGULATION

If you're involved with the sale of tobacco in Alberta there's something you need to know. On October 5, 2004, the Tobacco Tax Amendment Regulation was made, and certain sections of the *Tobacco Tax Act* ("the Act") were proclaimed.

New and revised definitions

In the Regulation, a new definition for "calendar week" confirms Sunday as the refund claim date used for the point of sale system (POSS). A new definition for "tobacco stick" and more detailed definitions for "cigar" and "cigarette" bring the definitions more in line with other Canadian jurisdictions and reflect current market conditions.

Prior to the revisions, the definition of "cigarette" was broad enough to include a "tobacco stick". "Tobacco stick(s)" now appears throughout the Act and Regulation wherever the word "cigarette(s)" is found, making

tobacco sticks subject to the same rules as cigarettes.

Because the tax rate depends partly on the type of tobacco sold, those involved in the tobacco industry should carefully review the new definitions in the Regulation.

Revised time limit

Responding to requests mainly from tobacco retailers, the time limit for claiming a tax refund on stolen or destroyed tobacco has been increased to **one year** from 90 days. Claimants must still **notify** Tax and Revenue Administration (TRA) of the loss or destruction of tobacco within 30 days from becoming aware of the loss or destruction. Claims relating to tax on uncollectible debts must still be made within 90 days.

New tear tape rules

As of April 1, 2005, producers of tear tape for use in Alberta will be

required to obtain a licence from TRA, follow guidelines for the security and identification of tear tape and maintain accurate records.

Marking permit holders must obtain all tear tape for use in marking tobacco to be sold in Alberta from an Alberta-licensed tear tape producer.

Tear tape licensing implementation

Licensing of tear tape producers is in progress. Tobacco markers will be advised of licensed producers by way of Special Notice and postings on our website.

For detailed information on the regulatory changes described above, see the Tobacco Tax Amendment Regulation: www.gov.ab.ca/home/Orders_in_Council/2004/1004/2004_466.html.

AUTOMOBILE INSURERS LATE FILING PENALTY REDUCED

As of October 18, 2004, the late-filing penalty charged to an automobile insurer who does not file the required report under section 87 of the *Hospitals Act* has

been reduced. New penalties set out by the Crown's Right of Recovery (Minister of Revenue) Amendment Regulation take into consideration full or partial

payments made. The new late filing penalty is the greater of a daily default rate of \$25, and a specified percentage of unpaid amounts.

LEGISLATIVE HIGHLIGHTS SPRING 2005

TOURISM LEVY REDUCES HOTEL ROOM TAX

Bill 21, the *Hotel Room Tax (Tourism Levy) Amendment Act*, was passed into law on March 24, 2005.

As of April 1, 2005, the bill:

1. changes the name from the "Hotel Room Tax" to the "Tourism Levy",
2. reduces the rate from five per cent to four per cent, and
3. eliminates the \$25 commission per reporting period for collection periods ending after March 31, 2005.

The five per cent rate will continue to apply to all accommodation, including prepaid vacation packages, paid for before April 1, 2005. The four per cent rate will apply to any accommodation paid for after March 31, 2005.

Other important changes

All operators will be required to formally register, when the required regulations are passed. However, operators with Business Identification Numbers (BINs) who currently file Hotel Room Tax returns will be deemed to have already registered with TRA.

As of April 1, 2005:

- returns filed late will receive a late filing penalty.
- the provision to waive interest and penalties under extraordinary circumstances comes into effect.

For more information, see the Special Notice:

http://www.finance.gov.ab.ca/publications/tax_rebates/hotel/sp_hrt1.html

BILL 26 TIGHTENS UP PROPERTY TRANSFERS AND REQUIRES PARALLEL NOTICES OF OBJECTION

Large corporations will be required to file an Alberta Notice of Objection at the same time when filing a Notice of Objection federally or with another jurisdiction if Alberta income or taxes could be affected. This is one of the changes to the *Alberta Corporate Tax Act* (ACTA) proposed with the introduction of Bill 26, the *Corporate Tax Statutes Amendment Act*, in the legislature on March 15, 2005. This provision will come into

force on proclamation when processes are in place.

Other revisions include measures to prevent avoidance of tax by transferring property out of a corporation at less than fair market value. A partnership will be defined as a separate person and partnership property determined according to the *Partnership Act*. Bill 26 also proposes that the date of issuance of the Alberta (re)assessment be used as the

effective date for calculating interest, where the Alberta (re)assessment is issued to parallel the (re)assessment from another jurisdiction and the corporation had not previously requested the loss carry-back under ACTA.

Bill 26 also makes a technical amendment to the *ABC Benefits Corporation Act* in relation to the 2004 announcement of the "Payment in Lieu of Tax" program.

Tax Exempt Fuel User Program Simplified

Tax and Revenue Administration (TRA) has been administering the Tax Exempt Fuel Users (TEFU) program since 1991. This program provides fuel tax rebates to commercial operations using fuel in licensed vehicles off-road or unlicensed vehicles where marked fuel is not reasonably available.

...**MORE**

The TEFU rebate application process has become an administrative burden for both the applicant and TRA. For this reason, TRA has been actively working with a number of industries to simplify administration of the program.

The Fuel Tax Regulation was amended on July 13, 2004, simplifying calculation and fuel tax rebate claim procedures. TRA has reached agreement on rebate percentages, based on off-road activity and type of vehicle/equipment, for the following activities of the oil and gas industry:

- crude petroleum and natural gas exploration, including the development and operation of oil and gas field properties;
- drilling wells for oil or gas field operations on behalf of others, on a contract or fee basis; and
- gathering, interpreting and mapping geophysical data for use in oil and gas extraction.

The simplified procedure is expected to expand to other industries such as petroleum service, logging and road construction. Rebate percentages and effective dates will be determined through consultation with industry representatives and announced accordingly.

The simplified process uses standard percentages agreed to by industry for the rebate calculation. Ministerial Orders will prescribe the agreed-upon rebate percentages and effective date. Approximately one year after implementation, the prescribed rebate percentages will be reviewed for accuracy and applicability.

Under the simplified procedure, operators will be eligible to apply for a rebate for off-road consumption based on the litres consumed multiplied by the prescribed rebate percentage for the vehicle/equipment category. The result will be multiplied by the applicable tax rate to determine the amount of the rebate.

For more information on this program: http://www.finance.gov.ab.ca/publications/tax_rebates/fuel/index.html.

Disclaimer: *This newsletter is intended to keep our clients informed about corporate and commodity tax-related matters. Tax Notes does not replace the legislation or regulations.*