



Canada Revenue
Agency

Agence du revenu
du Canada

Resolving Your Dispute: Objection and Appeal Rights Under the *Income Tax Act*

Visually impaired persons can get our publications in braille, large print, or etext (computer diskette), or on audiocassette by visiting our Web site at www.cra.gc.ca/alternate or by calling **1-800-959-2221** weekdays from 8:15 a.m. to 5:00 p.m. (Eastern Time).

The information in this brochure was accurate when it was published in July 2006. However, legislative provisions and requirements could change at any time. We make every effort to provide updates in a timely manner.

La version française de cette publication est intitulée *Régler votre différend : Opposition et vos droits d'appel selon la Loi de l'impôt sur le revenu*

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Is this brochure for you?

You are entitled to fair treatment in all your dealings with us. One of the most important features of this fair treatment is the right to a formal review of your income tax assessment. Our declaration called *Your Rights* affirms this right. More information about fairness and your rights is available on our fairness Web page at www.cra.gc.ca/fairness.

In this brochure, we outline what you can do if you do not understand or agree with your income tax assessment and would like to dispute it.

This brochure deals only with objections and appeals under the *Income Tax Act*. You can find information on objections and appeals under Part IX, goods and services tax/harmonized sales tax (GST/HST), of the *Excise Tax Act* in Chapter 31 of the GST/HST Memoranda Series, *Objections and Appeals*. You can also find information on appeals under the *Employment Insurance Act* and the *Canada Pension Plan* in the pamphlet called *Your Appeal Rights: Employment Insurance and Canada Pension Plan Coverage*. You can get these documents on our Web site at www.cra.gc.ca, or by calling us at 1-800-959-2221.

This brochure is only a guide. For more detailed and technical information, please see the *Income Tax Act*, the *Tax Court of Canada Act*, and the *Federal Courts Act*.

Note

In this brochure, any reference to assessments also includes reassessments. In addition, rights of objection and appeal that apply to assessments and reassessments also apply to determinations and redeterminations we issue, such as child tax benefit and GST credit notices.

Our Mandate

The mandate of the Appeals Branch is to resolve disputes arising from decisions made under legislation administered by the Canada Revenue Agency by conducting fair and impartial reviews.

Our highly skilled workforce will conduct these fair and impartial reviews by actively engaging in dialogue and utilizing alternative processes when appropriate.

In cases where litigation becomes necessary, we will collaborate with the Department of Justice in the conduct of court cases.

A responsive redress process promotes voluntary compliance and fosters trust in the integrity of the Canada Revenue Agency.

Before Filing an objection

Many misunderstandings arise from miscommunication or a lack of information. That's why we say: Talk to us.

If you disagree with your assessment, we strongly recommend that you first call or visit the Client Services Section of your tax services office or write to the tax centre that processed your return to discuss the matter. Many disputes are resolved this way.

Filing an objection

Why do you file?

You can file an objection for many reasons, such as:

- you are not satisfied with our explanations of your assessment; or
- there is a dispute over how we have interpreted the income tax law.

Filing an objection is the first step in the formal process of resolving a dispute. After you file an objection, the Appeals Division will impartially review it.

Time limits

If you are an individual (other than a trust), or filing for a testamentary trust, the time limit for filing an objection is whichever of the following two dates is later:

- one year after the date of the return's filing deadline; or
- 90 days after the day we mailed the *Notice of Assessment*.

In every other case, you have to file an objection within 90 days of the day we mailed the *Notice of Assessment*.

How do you file?

You can file an objection by writing to the Chief of Appeals at your tax services office or tax centre (see sample letter in Appendix A). If you prefer, you can use Form T400A, *Objection – Income Tax Act*. We have provided a copy of the form in the middle of this brochure.

Representation

Anyone can file an objection on your behalf such as a family member or a friend, if they are authorized.

If you would like to authorize the Canada Revenue Agency (CRA) to deal with another person (such as your spouse or common-law partner, other family member, tax practitioner, or accountant) as your representative for income tax matters you must complete and submit form T1013, *Authorizing or Cancelling a Representative*.

What information should you include?

Give the following information when you file an objection:

- your name and address;
- a telephone number where we can reach you during the day;
- the date of your *Notice of Assessment*;
- the taxation year (if applicable);
- your social insurance number or Business Number;
- the facts and reasons for your objection;
- any documents that support your objection; and
- the name and address of your authorized representative (if applicable).

Sign and date your objection. An authorized officer must sign for a corporation or trust.

Note

If you include a copy of your Notice of Assessment, it will help us process your objection.

Limitations on your right to object

In most cases, you can object to any item in a reassessment. However, in a few situations, you can only object to the matter that caused the reassessment. The Appeals Division will tell you if limitations apply.

Reviewing your objection

We will review your objection and contact you or your representative to discuss the matter.

To ensure that you or your representative understands the reasons for the assessment and to provide an open exchange of information, we offer the documents related to the issues in dispute to you at the start of the review. In addition, we inform you of any discussions we have had with assessing area representatives about your disputed assessment.

After considering all the facts, the Chief of Appeals or another authorized officer will make the final decision about your assessment. If the officer agrees with you in whole or in part, we will adjust your tax return and send you a notice of reassessment. However, if the officer disagrees, we will send you a notice to confirm the assessment was correct.

What is available to you

The following list indicates the type of information that is generally available to you. This list is not exhaustive, as information in each file may vary.

- Copies of your tax returns;
- Reports prepared by an auditor to support your assessment;
- Working papers prepared by an auditor that are relevant to the issues in your dispute;

- Records of discussions between an appeals officer and an auditor regarding your assessment;
- Copies of court decisions and relevant sections of legislation relied on by an auditor to support your assessment;
- Scientific, appraisal, and valuation reports relied on by an auditor to determine your assessment; and
- Information obtained from a third party with whom you are doing business, such as sales invoices, purchase orders, cancelled cheques, etc.

What is not available to you

Your right to have information held in confidence is one of the underlying principles of the Canadian tax system. We guard that right stringently.

To protect sensitive information regarding other individuals and businesses and to maintain the integrity of the tax system, the following information must remain confidential and cannot be provided to you:

- Personal information relating to another person;
- Information from a third party obtained on the expectation that the information would remain confidential;
- Information subject to solicitor/client privilege, such as legal opinions and referrals for legal opinions, including the submissions made in support of the referral;
- Documentation related to an on-going investigation;
- Confidential information obtained from other federal departments, provincial or municipal governments, and treaty partners; and

- Our audit techniques, limits, tolerances, and specific tests, the disclosure of which would prejudice the results or future use.

Time extension

If you did not file your objection on time because of circumstances beyond your control, you can apply for a time extension. You can apply by writing to the Chief of Appeals at your tax services office or tax centre. You have to explain why you did not file your objection on time, and enclose your objection.

Time limit

Apply as soon as possible, but no later than one year after the date you had to file the objection.

Conditions for an extension

To get an extension, you have to show that:

- within the objection period:
 - you could not object or have someone else object for you; or
 - you intended to object;
- it would be fair to grant your application; and
- you applied as soon as you could.

The Chief of Appeals or another authorized officer can grant or refuse an extension. We will notify you in writing of the decision.

If we grant you an extension, your objection is considered to be filed on the day we mail you the decision notice.

Applying to the Tax Court of Canada

If we refuse to extend the time, you can apply to the Tax Court of Canada for further consideration. The Court has

to receive your application within 90 days of the day we mailed you our refusal notice.

You can also apply to the Court if we do not give you a decision within 90 days of the day you filed your application for extension.

To apply, you need three copies of:

- the application sent to the Chief of Appeals;
- the objection; and
- our refusal notice (if we issued one).

Deliver or send these copies by mail to the Registry of a Tax Court of Canada office. You can also send a copy of these documents by fax. If you send them this way, you also have to deliver or mail three copies to the Court at once. You can find a list of the Tax Court of Canada offices in Appendix B.

Appealing to the Tax Court of Canada

If you do not agree with our decision on your objection, you can appeal to the Tax Court of Canada.

The Tax Court of Canada is an independent court of law that regularly conducts hearings in major centres across Canada. It follows two procedures: the informal procedure and the general procedure.

Time limit

The Tax Court of Canada has to receive your appeal notice within 90 days of the date we mail our decision (a notice of reassessment or a notice of confirmation) on your objection.

You can also appeal to the Court if we do not give you a decision on your objection within 90 days of the day you filed it.

Informal procedure

You qualify to use the informal procedure if:

- the disputed amount of federal tax and penalties is not more than \$12,000 per assessment;
- the disputed loss amount is not more than \$24,000 per determination; or
- interest on federal tax and on penalties is the only matter in dispute.

Note

If the disputed amounts are more than the informal procedure limits, you can restrict your appeal to those limits. You have to state this in your appeal.

To resolve appeals as quickly and informally as possible, the Court does not have to follow legal or technical rules of evidence. A judgment issued under the informal procedure will not be treated as a precedent for other cases.

Appeal notice

You do not need a form to file an appeal. However, you have to appeal in writing and state the reasons for your appeal and the relevant facts.

Election

If you would like to have the Court hear your appeal under the informal procedure, you must clearly indicate this in your appeal notice or in a letter to the Court no later than 90 days after the date we reply to your appeal.

Filing

You can file your appeal by delivering or mailing your appeal notice to the Registry of a Tax Court of Canada office, together with the appropriate filing fee. You can also send your notice of appeal by fax or by using the Tax Court of Canada's online document-filing facility accessible through its Web site. If you send it in either of these ways, you also have to deliver or mail the original of your appeal, together with the filing fee, to the Court at once. You can find a list of the Tax Court of Canada offices in Appendix C.

Filing fee

You have to include a filing fee of \$100 with your appeal. Your cheque for the filing fee should be made payable to the Receiver General for Canada.

If you are an individual, the Court may waive this fee if it is satisfied that the payment would cause you severe financial hardship. If you want to ask the Court to waive the filing fee, you have to ask in your written appeal.

If the Court allows your appeal in whole or in part, it will reimburse the filing fee.

Representation

You can either represent yourself or have another person act for you.

Time limits

To ensure prompt hearings, the informal procedure imposes strict time limits on us and the Court.

Generally, the time limits are as follows:

- We have to reply to your appeal within 60 days of the date the Registry of the Court sends us the appeal.
- The Court must hear the appeal no later than 180 days after the last day we have to file our reply.

- The Court must give its judgment within 90 days of the date the hearing ends.

Costs

If you are more than 50% successful in your appeal, the judge can order us to pay part of your legal costs. For example, you would be in such a situation if you are disputing \$6,000 of federal tax on disallowed expenses and the judge's decision reduces this amount by more than \$3,000 in tax.

However, if you lose your appeal, the informal procedure rules do not allow the judge to order you to pay our costs.

General procedure

Unless you qualify for and choose to follow the informal procedure, the Tax Court of Canada will hear your appeal under the general procedure, regardless of the disputed amount.

The general procedure follows formal court rules, which cover such matters as:

- filing of an appeal;
- rules of evidence;
- examinations for discovery; and
- production of documents.

Representation

Individuals can either represent themselves or have a lawyer represent them. A lawyer has to represent a corporation, except in special circumstances when the Court may allow one of the corporation's officers to represent it.

Note

For information on how to file a notice of appeal, contact any of the Tax Court of Canada offices we have listed in Appendix B.

Filing fees

You have to include a filing fee with your appeal. We have listed the rates below:

Filing fee	Total federal tax and penalty in dispute	Loss contested
\$250	up to \$49,999	up to \$99,999
\$400	\$50,000 to \$149,999	\$100,000 to \$299,999
\$550	\$150,000 or more	\$300,000 or more

If interest is the only matter you are appealing, the filing fee is \$400 regardless of the disputed amount.

Costs

The Court can order the unsuccessful party to pay some of the other party's legal costs.

Time extension

If the Tax Court of Canada does not receive your appeal within 90 days of the date we mailed our decision on your objection, you can apply to the Court for a time extension.

Deliver or send by mail to the Registry of a Tax Court of Canada office three copies of your application, together with three copies of your notice of appeal. You can also send your application and appeal notice by fax or by using the Tax Court of Canada's online document-filing facility accessible through its Web site. If you send your documents in either of these ways, you also have to deliver or mail three copies to the Court at once. On your

application, you have to state why you did not file your appeal on time. You can find a list of the Tax Court of Canada offices in Appendix B.

Time limit

Apply as soon as possible. The Court has to receive your application no later than one year after the date you had to file a notice of appeal.

Conditions for an extension

To get an extension, you have to show the Court that:

- within the appeal period:
 - you could not appeal or have someone else appeal for you; or
 - you intended to appeal;
- it would be fair to grant your application;
- you applied as soon as you could; and
- you have reasonable grounds for appealing.

If the Court grants your application, it will issue an order extending the time to appeal.

Appealing to the Federal Court of Appeal

You can appeal a judgment of the Tax Court of Canada to the Federal Court of Appeal. You have to file the appeal within 30 days of the date of the Tax Court's judgment. The months of July and August are excluded from the 30-day calculation.

The *Federal Courts Act* restricts the grounds for an appeal from a judgment heard under the Informal Procedure by the Tax Court.

Appealing to the Supreme Court of Canada

You can appeal a judgment of the Federal Court of Appeal to the Supreme Court of Canada. However, you first have to get the Supreme Court's permission.

Disputed amounts

Collection procedures

If you file an objection, we usually postpone collection action on amounts in dispute until 90 days after we mail our decision to you. If you file an appeal to the Tax Court of Canada, we usually postpone collection action on amounts in dispute until the Court mails its decision or you end your appeal. For some situations we will not postpone collection action on disputed amounts, such as for taxes you had to withhold and remit.

In all cases, interest will continue to accrue on any amount payable. You can pay all or part of the amount, and you will receive a refund with interest if you are successful.

If you lose your appeal to the Tax Court of Canada, we will resume collection action even if you appeal the Court's decision. However, we will accept security for payment while your appeal is outstanding.

Repayment of amounts paid

If you have already paid the disputed amounts, or if you gave security instead, you can apply in writing to have us repay that amount or release the security we are holding.

We can repay disputed amounts or release the security if:

- you have filed an objection and we have not confirmed the assessment or issued a reassessment within 120 days of the date you filed it; or
- you have appealed to the Tax Court of Canada.

Do you need more information?

We would like to resolve disputes without going to court, especially if factual matters are the only concern. If you would like more information, please contact the Chief of Appeals of your tax services office or tax centre. For the telephone number of the Appeals Division, see the listings in the government section of your telephone book.

If you have a hearing or speech impairment and use a teletypewriter (TTY), you can call our toll-free, bilingual TTY enquiry service at **1-800-665-0354** during regular hours of service.

Appendix A – Objection letter

Your address
and telephone number
Date

Chief of Appeals
Tax Services Office or Tax Centre

Re: Objection to 2005 reassessment
 (give your social insurance number)

Dear Sir or Madam:

I object to the reassessment of my 2005 income tax return. Please find enclosed a copy of my September 15, 2006, *Notice of Reassessment*.

In July 2005, I moved from Vancouver to Edmundston, N.B. to start a new job. I claimed the moving expenses on my 2005 return and attached Form T1-M, *Moving Expenses Deduction*.

As my T1-M form indicates, I drove to Edmundston with my family. In my claim for transportation costs, I included the following costs of a side trip to Banff:

travel costs	(gas + car repair)	\$478.75
lodging	(1 night)	\$175.00
meals	(2 days)	\$205.50

The Canada Revenue Agency disallowed this part of my claim.

Originally, I intended to take a day trip from Calgary to Banff. However, my car overheated on the way, and I had to stay overnight for radiator repairs. Since I could not control this situation, I think you should allow this cost as a moving expense. At the very least, you should let me claim the \$443.75 car repair.

I would be pleased to discuss this matter with you.

Yours truly,

Your name

Enclosure

Appendix B – Appeals offices

Belleville TSO

11 Station Street
Belleville ON K8N 2S3

Burnaby-Fraser TSO

9737 King George Highway
Surrey BC V3T 5W6

Calgary TSO

220-4th Avenue South East
Calgary AB T2G 0L1

Charlottetown TSO

Sherwood Business Centre
161 St. Peters Road
PO Box 8500
Charlottetown PE C1A 8L3

Edmonton TSO

9700 Jasper Avenue
Edmonton AB T5J 4C8

Halifax TSO

Ralston Building
1557 Hollis Street
PO Box 638
Halifax NS B3J 2T5

Hamilton TSO

55 Bay Street North
P.O. Box 2220
Hamilton ON L8N 3E1

Kitchener-Waterloo TSO

166 Frederick Street
Kitchener ON N2G 4N1

Laval TSO

3400 Jean-Béraud Avenue
Laval QC H7T 2Z2

London TSO

451 Talbot Street
London ON N6A 5E5

Monteregie-Rive-Sud TSO

3250 Lapinière Boulevard
Brossard QC J4Z 3T8

Montréal TSO

305 René Lévesque
Boulevard West
Montréal QC H2Z 1A6

Newfoundland & Labrador TSO

Sir Humphrey Gilbert
Building
165 Duckworth Street
PO Box 12075
St. John's NL A1B 4R5

Ottawa TSO

333 Laurier Avenue West
Ottawa ON K1A 0L9

Outaouais TSO

1100 Maloney Boulevard
West
Gatineau QC K1A 1L4

Québec TSO

165 de la Pointe-aux-
Lièvres Street
Québec QC G1K 7L3

Regina TSO

1955 Smith Street
Regina SK S4P 2N9

Saint John TSO

126 Prince William Street
Saint John NB E2L 4H9

Saskatoon TSO

340-3rd Avenue North
Saskatoon SK S7K 0A8

Shawinigan TC

4695 - 12th Avenue
Shawinigan-Sud QC G9N 7S6

Sherbrooke TSO

50 Place de la Cité
PO Box 1300
Sherbrooke QC J1H 5L8

Southern Interior TSO

277 Winnipeg Street
Penticton BC V2A 1N6

St. Catharines TSO

32 Church Street
PO Box 3038
St. Catharines ON L2R 3B9

St John's TC

290 Empire Avenue
St. John's NL A1B 3Z1

Sudbury TSO/TC

1050 Notre-Dame Avenue
Sudbury ON P3A 5C1

Summerside TC

275 Pope Road
Summerside PE C1N 5Z7

Thunder Bay TSO

130 South Syndicate Avenue
Thunder Bay ON P7E 1C7

Toronto Centre TSO

1 Front Street West
Toronto ON M5J 2X6

Toronto East TSO

200 Town Centre Court
Scarborough ON M1P 4Y3

Toronto North TSO

Suite 1000
5001 Yonge Street
North York ON M2N 6R9

Toronto West TSO

PO Box 6000
Mississauga ON L5A 4E9

Vancouver TSO

1166 West Pender Street
Vancouver BC V6E 3H8

Vancouver Island TSO

1415 Vancouver Street
Victoria BC V8V 3W4

Windsor TSO

185 Ouellette Avenue
Windsor ON N9A 5S8

Winnipeg TSO

325 Broadway Avenue
Winnipeg MB R3C 4T4

Winnipeg TC

66 Stapon Road
Winnipeg MB R3C 3M2

Appendix C – Tax Court of Canada offices

Principal Office – Ottawa

200 Kent Street
Ottawa ON K1A 0M1
Telephone: (613) 992-0901
or 1-800-927-5499
TDD: (613) 943-0946
Fax: (613) 957-9034

Calgary

Canadian Occidental Tower
635 Eighth Avenue S.W.
3rd Floor, P.O. Box 14
Calgary AB T2P 3M3
Telephone: (403) 292-5556
TDD: (403) 292-5879
Fax: (403) 292-5329

Edmonton

Scotia Place
10060 Jasper Avenue
Tower 1, Suite 530
P.O. Box 51
Edmonton AB T5J 3R8
Telephone: (780) 495-2513
TDD: (780) 495-2428
Fax: (780) 495-4681

Fredericton

Westmorland Place
82 Westmorland Street
Suite 100
Fredericton NB E3B 3L3
Telephone: (506) 452-2424
TDD: (506) 452-3036
Fax: (506) 452-3584

Halifax

Central Trust Tower
1801 Hollis Street
17th Floor, Suite 1720
Halifax NS B3J 3N4
Telephone: (902) 426-5372
TDD: (902) 426-9776
Fax: (902) 426-5514

Iqaluit

Nunavut Court of Justice
Arnakallak Building
(Building #224)
P.O. Box 297
Iqaluit NU X0A 0H0
Telephone: (867) 975-6100
Fax: (867) 979-6168

Montréal

30 McGill Street
Montréal QC H2Y 3Z7
Telephone: (514) 283-9912
Fax: (514) 496-1996

Québec

Palais de Justice
300 Jean Lesage Blvd
Room 500A and 500E
Québec QC G1K 8K6
Telephone : (418) 648-7324
TDD: (418) 648-4644
Fax: (418) 648-4051

Toronto

200 King Street West,
Suite 902, P.O. Box 10
Toronto ON M5H 3T4
Telephone: (416) 973-9181
Fax: (416) 973-5944

Vancouver

Pacific Centre
P.O. Box 10065
701 West Georgia Street,
3rd Floor
Vancouver BC V7Y 1B6
Telephone: (604) 666-7987
Fax: (604) 666-7967

Winnipeg

Imperial Broadway Tower
363 Broadway Street
4th Floor
Winnipeg MB R3C 3N9
Telephone: (204) 983-1785
TDD: (204) 984-4440
Fax: (204) 983-7636

You can send an appeal or an application for time extension by using the Tax Court of Canada's online document-filing facility accessible through its Web site at

www.tcc-cci.gc.ca

Your opinion counts!

If you have any comments or suggestions that would help us improve the explanations this brochure contains, we would like to hear from you.

Please send your comments to:

Appeals Branch
Canada Revenue Agency
22nd floor
25 Nicholas Street
Ottawa ON K1A 0L5