

Instalment Requirements

Corporation Capital Tax Act

This bulletin provides a brief discussion of the instalment requirements under the *Corporation Capital Tax Act* (the Act).

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Corporation Capital Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

In this issue...

- *Corporations liable for making instalments*
- *Due dates of instalments*
- *Instalment remittance procedures*
- *Overpayments*
- *Transfer of instalment payments between taxation years*
- *Refund of instalment payments*
- *Instalment payments in special situations*
- *Penalties and interest*

CORPORATIONS LIABLE FOR MAKING INSTALMENTS

Every corporation whose corporation capital tax (CCT) liability exceeds **\$3,000** is required to remit **four instalments** in amounts equal to **25%** of its estimated total tax payable for the taxation year.

In determining whether CCT instalments are required (i.e. whether the corporation's CCT liability exceeds \$3,000), the calculation may be based on the **lesser** of:

- the preceding year's CCT, on an annualized basis; or
- the current year's estimated CCT.

Note, however, that if this latter method is used to calculate the instalment base and the estimated tax is less than the actual tax for the year, then penalties and interest will be levied.

A corporation's liability for making instalments is determined on an **entity** basis, not an associated basis. Therefore, a corporation whose annual tax liability is less than \$3,000 will not be required to remit instalments, even if that corporation is associated with another corporation which is liable to pay instalments.

Corporations which are not required to make instalments must remit the entire balance of tax owing on or before the due date of the CCT return; i.e., within 184 days of the corporation's taxation year end.

DUE DATES OF INSTALMENTS

A corporation that is subject to instalments must remit these payments by the **15th** day of the **3rd**, **6th**, **9th**, and **12th** months following the calendar month in which that corporation's current taxation year began. The above reference represents no change from the previous legislative wording or administrative practice.

As an illustration, a corporation ("A Co.") whose fiscal year commenced on January 1, 1994 would remit instalments on April 15, 1994; July 15, 1994; October 15, 1994; and January 15, 1995 on account of its 1994 tax liability.

The final balance of tax owing, net of any instalments paid, must be remitted by the corporation on or before the due date of the CCT return; i.e., within 184 days of the corporation's taxation year-end. Therefore, A Co.'s final balance of tax owing, if any, would be payable on or before July 3, 1995 when the CCT return is due.

INSTALMENT REMITTANCE PROCEDURES

A corporation that is subject to the tax must remit payment by cheque, draft, or money order payable to the **Minister of Finance**. Non-resident corporations may pay either by:

- draft or money order in Canadian dollars drawn on a Canadian bank; or
- draft or money order in U.S. dollars drawn on a worldwide bank.

At the present time, CCT payments **cannot** be processed by B.C. government agents, financial institutions or electronic data interchange; however, it is anticipated that these payment procedures will be available to corporations sometime in the near future.

Each instalment payment of tax should be accompanied by an instalment coupon or covering letter specifying the **corporation's name, CCT account number, and the taxation year to which the payment is to be applied**. Those corporations that have registered with the CCT Department, and have indicated that they are subject to instalments, will automatically receive pre-printed instalment coupons prior to the due date for each instalment. The instalment coupon will include an updated record of the corporation's instalment account balance in respect of the **current taxation** year.

Where there is an outstanding balance of tax payable or refundable, a Statement of Account will be forwarded to the corporation either on a monthly basis, or after recording a payment receipt or other adjustment to the corporation's account. The Statement of Account reflects the cumulative debit or credit balance in the taxpayer's account, including any interest or other adjustments processed since the preceding statement was issued.

OVERPAYMENTS

Where a corporation has made an overpayment of tax for the taxation year, the branch will, unless authorized otherwise, automatically refund the overpayment to the corporation, after the offset of any outstanding CCT debts.

A corporation may request that an overpayment of tax, plus any applicable refund interest, be transferred to its subsequent taxation year by either indicating this on the CCT return or by sending a letter requesting the transfer before the return has been assessed.

If the taxpayer does not make the request, the branch will automatically refund the overpayment after the offset of any CCT outstanding debts.

The branch will not refund any amounts to a third party or to another corporation's CCT account.

TRANSFER OF INSTALMENT PAYMENTS BETWEEN TAXATION YEARS

The branch will consider requests to transfer a corporation's instalment payments between taxation years if the request is made in writing **prior to the earlier of the required filing date or the actual filing date of the CCT return for the year**. The branch will not transfer instalment payments after the return is filed or the statutory filing date of the return has expired, whichever occurs first.

All requests for transfers of instalments must be in writing and signed by an authorized officer of the corporation. The request should clearly state the corporation's name and CCT account number; the amount of funds to be transferred; and the taxation years in question.

Payments will be transferred effective the original payment date of the funds. The original payment date will also be the effective date for interest calculation purposes. If the amount of the transfer results in an instalment deficiency for the year from which the transfer is being made, the corporation will be liable for interest and/or penalty charges.

The branch will not process requests to transfer instalment amounts to another corporation's CCT account.

REFUND OF INSTALMENT PAYMENTS

In general, the branch will not refund instalments paid by a corporation until the return for the taxation year has been assessed. However, upon request from a corporation, the branch will refund instalments in limited circumstances; for example:

- if payments were made erroneously to the British Columbia government but were intended for another tax jurisdiction;
- if payments were made by a corporation that is subsequently wound-up in the year and will not have a CCT liability at its year end; or
- if the corporation became exempt in the current taxation year.

The branch will only consider requests to refund a corporation's instalment payments if the request is made in writing **prior to the earlier of the required filing date or the actual filing date of the CCT return for the year**.

Any such request for a refund of instalments must

be in writing and signed by an authorized officer of the corporation. The request should clearly state the corporation's name and CCT account number; the amount of instalments to be refunded; the relevant taxation year; and the reason for the request.

If the amount of the refund results in an instalment deficiency, the corporation will be liable for interest and/or penalty charges.

INSTALMENT PAYMENTS IN SPECIAL SITUATIONS

A. First Year of Operations

A new corporation that does not have a prior taxation year end is not required to remit instalments during its first taxation year. The balance of tax owing, if any, is payable on or before the due date of the annual return; i.e., within 184 days after its taxation year end. This provision does not apply to amalgamated corporations, the rules of which are outlined below.

B. Instalments Based on a Short Preceding Taxation Year

Where a corporation estimates its current year's instalment base using its CCT liability from the preceding taxation year, and that taxation year was less than 365 days, then the corporation's estimated tax liability for instalment purposes must be grossed up to provide an annualized amount.

For example, a corporation (A Co.) has a tax liability of \$10,000 in 1994. Its 1994 taxation year is 100 days. A Co. estimates that its CCT liability for its 1995 taxation year, which is 365 days, will exceed its annualized 1994 CCT liability. Therefore, A Co.'s 1995 instalment base is \$36,500 ($\$10,000 \times 365/100$) and A Co. should remit four instalments of \$9,125 ($\$36,500/4$).

C. Amalgamated Corporations

For purposes of calculating its instalment base, an amalgamated corporation is treated as a continuation of its predecessor corporations. As such, the instalment base of an amalgamated corporation will be the aggregate of the taxes payable by each of the predecessor corporations for their most recent taxation year. If a relevant taxation year of a predecessor corporation was less than 365 days, its tax liability for the year must be annualized according to the rules outlined above.

D. Windups and Rollovers

Where a subsidiary corporation has been wound up into a Canadian parent corporation under the provisions of subsection 88(1) of the Income Tax

Act (Canada), the parent corporation and the subsidiary corporation must independently determine their instalment base for CCT purposes. In other words, in the year of the wind-up, the parent corporation is not required to assume the subsidiary's instalment base since the commencement of a wind-up and the resulting distribution of property to the parent does not trigger a deemed year end in the subsidiary.

Similarly, where all or substantially all of the property of one corporation has been transferred to a non-arm's length corporation under subsection 85(1) or 85(2) of the Income Tax Act (Canada), the transferee is not required to take into account the instalment base of the transferor corporation. This rule parallels the instalment provisions with respect to wind-ups.

PENALTIES AND INTEREST

Failure to comply with the legislation will result in interest and penalties being assessed.

The legislation provides a **penalty of 10%** of the amount of unpaid tax for late-filed returns or for late or deficient tax payments. In addition, **debit interest** on any overdue tax amounts will be levied at prescribed rates.

Where a corporation, by making instalments, overpays its tax liability for a taxation year, the overpayment will earn credit interest from the latter of the due date of the instalment and the date that the overpayment was made until the date refunded.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

For further information, please contact:

**Ministry of Small Business and Revenue
Income Tax Branch
PO Box 9444 Stn Prov Govt
Victoria BC V8W 9W8**

**Telephone: 250 953-3082
Fax: 250 356-0434**

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