

SUBJECT: **GUIDELINES FOR REFUNDS BEYOND THE NORMAL THREE YEAR PERIOD**

N°: **92-3**

DATE: March 18, 1992

Introduction

1. This circular provides individuals and testamentary trusts with information and guidelines regarding certain legislation found in Bill C-18, enacted December 17, 1991. The legislation gives discretion to assess or reassess an income tax return to give a refund, or to apply a refund against amounts owing, where this would otherwise be prohibited by statute (statute barred). The legislation allows refunds to be issued or applied for taxation years dating back to 1985.
2. This circular sets out the guidelines that Revenue Canada, Taxation will follow when applying the legislation. As well, this circular outlines the way that taxpayers can file returns or request adjustments for years dating back to 1985, and details the information necessary to process the claims.
3. These are only guidelines. They are not intended to be exhaustive, and are not meant to restrict the spirit or intent of the legislation. As the Department gains experience in applying the legislation, these guidelines may be adjusted, as necessary.

The law

4. The law provides for refunds or their application against amounts owing if:
 - (a) the tax return was filed within three years from the end of the taxation year; or
 - (b) the Department received the request for a refund within three years from the date of the original Notice of Assessment. This is referred to as the "normal reassessment period."
5. Effective December 17, 1991, the new legislation also provides discretion to issue refunds, or to apply them to amounts owing, which date back to the 1985 taxation year. This can be done if a return is filed at any time, or, if previously filed, a request is made after the normal reassessment period.
6. This applies only to individuals and testamentary trusts.

Requests for refunds

7. The Department will issue a refund or reduce the amount owed if it is satisfied that such a refund or reduction would have been made if the return or request had been filed or made on time, and provided that the necessary assessment is correct by law and has not been previously allowed.
8. Individuals and testamentary trusts, or their authorized representatives, can apply for a refund dating back to 1985. They can do this by filing the income tax return or returns together with documentation or explanations to support their claims. If the returns were previously filed, they can make a written request.
9. Refunds or reductions of amounts owing that individuals and testamentary trusts may request include refundable tax credits such as the child tax credit, federal sales tax credit, goods and services tax credit or provincial tax credits that have not been claimed. Taxpayers can also make a request if they were unaware of a deduction or credit that was available, such as the equivalent-to-married

amount, or any other deduction or non-refundable tax credit that they missed. In addition, payroll deductions may have resulted in an overpayment of taxes for which a refund may be requested.

10. To request a refund or a reduction of amounts owing, taxpayers should make the request in writing and include the following information: their name, address, social insurance number or trust account number, the taxation years involved, all relevant documents to support any claims being made, and an explanation of the specific adjustment they are requesting.

11. Individuals and testamentary trusts can send their returns, written requests, and supporting documentation to the taxation centre where they file their income tax returns, or to the district taxation office serving their area.

12. To support a return or a request, taxpayers should provide the following information, if relevant:

- (a) official receipts or certified "true" copies of receipts (for example, tuition, RRSP, charitable donation receipts);
- (b) copies of information slips (for example, T3, T4, T5);
- (c) details or calculations of specific expenses or deductions being claimed;
- (d) proof of payment such as, cancelled cheques for rental payments, letter from landlord.

13. If T4 information slips are relevant but are not available, taxpayers should provide a letter from their employer or former employers which states their income and deductions for the year. Otherwise, they should provide the full name and address of the employer or former employers, as well as copies of pay stubs or cancelled cheques.

14. If other types of information slips are not available, a taxpayer should provide the name and address of the slip issuer and the amount on the slip.

15. If it is impossible to get the proper documentation, taxpayers should submit full details and a written explanation for consideration.

16. The Department will try to reconstruct and validate the claim or claims by referring to departmental records.

17. A refund will not be issued if the Department cannot validate a claim after referring to its records.

Permissive deductions

18. The Department will not process requests for adjustments if the requested decrease is the result of an increased claim for capital cost allowance or other allowable deductions, where the taxpayer originally claimed less than the maximum amount allowed.

Unemployment Insurance premiums and Canada Pension Plan contributions

19. The new legislation does not affect refunds for overpayments of Unemployment Insurance premiums and Canada Pension Plan contributions. The time limit for refunds remains at three and four years respectively.

Calculation and application of refunds

20. Under certain circumstances, the Department may reduce the amount of any refund to which an individual or testamentary trust might otherwise be entitled. For example, this may happen when a requested adjustment for a year beyond the normal reassessment period (paragraph 4 (b)) results in a refund for the particular year, but the adjustment would necessitate the increase of taxes, interest, or penalties for another year which is statute barred. Under these circumstances, the Department will usually grant a refund only if it is more than the taxes, interest, and penalties that would otherwise have been paid if the other year had not been statutebarred.

21. Also, the amount of any requested refund may be reduced where a taxpayer owes money from other taxation years.

Refund interest

22. Interest will be paid on a refund. The interest will start to accumulate on the date the return is filed, or on the date of receipt of a written request to adjust a return. However, refund interest will only apply from December 17, 1991, the date the legislation was enacted.

Objections and appeals

23. Returns filed for the first time will be subject to the usual objection and appeal process.

24. Returns reassessed after the normal reassessment period (paragraph 4 (b)), under the new legislation, will not be subject to objections or appeals.

Exercise of the discretion

25. If taxpayers believe that the Department has not exercised its discretion in a reasonable and fair manner, then they may request, in writing, that the director of the appropriate district office or taxation centre review the situation.

26. If you have any comments about this circular, please write to:

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Ottawa, Ontario
K1A 0L8