



Resolving your dispute: Objection and appeal rights under the *Income Tax Act*

If you have a visual impairment, you can get our publications in braille, large print, etext or MP3 by going to www.cra.gc.ca/alternate. You can also get your personalized correspondence in these formats by calling **1-800-959-8281**.

The information in this brochure was accurate when it was released in June 2014. 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 : Vos droits d'opposition et 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 *Taxpayer Bill of Rights* affirms this right.

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 *Canada Pension Plan* and the *Employment Insurance Act* in pamphlet P133 entitled *Your Appeal Rights: Canada Pension Plan and Employment Insurance Coverage*. You can get these documents on our website at www.cra.gc.ca, or by calling us at 1-800-959-8281.

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*.

For more information about resolving disputes go to www.cra.gc.ca/resolvingdisputes.

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 the Canada child tax benefit, the GST/HST credit, and the disability tax credit.

Our mandate

The mandate of the Appeals Branch is to provide a fair and impartial process to resolve disputes, service complaints and requests for relief arising from decisions made under the legislation and programs administered, and services provided by the Canada Revenue Agency (CRA).

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 CRA.

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 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?

If you think we have misinterpreted the facts or applied the law incorrectly, you have the right to object to:

- income tax assessments and reassessment indicating taxes are owed; or
- determinations or redeterminations such as the good and services tax / harmonized sales tax (GST/HST) credit, the Canada child tax credit and the disability tax credit.

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 sent the notice of assessment.

In every other case, including assessment of taxes in respect of over-contributions to a RRSP or TFSA, you have to file an objection within 90 days of the day we sent the notice of assessment.

How do you file?

You can file your objection by choosing one of the following options:

- using the online services in My Account at www.cra.gc.ca/myaccount for your personal income tax and benefits, or in My Business Account at www.cra.gc.ca/mybusinessaccount for your corporation and payroll accounts;
- writing to the Chief of Appeals (see sample letter in Appendix A) and sending it to the appropriate Appeals Intake Centre (see Appendix B); or
- using Form T400A, *Objection Income Tax Act* and sending it to the appropriate Appeals Intake Centre (see Appendix B). To get a Form T400A, go to www.cra.gc.ca/forms or call 1-800-959-8281.

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 CRA to deal with another person (such as your spouse or common law partner, other family member, tax practitioner, accountant, or employee) as your representative for income tax matters you must give your consent.

You can authorize a representative by:

- completing form T1013, *Authorizing or Cancelling a Representative*, or form RC59, *Business Consent Form* and sending it to your CRA Tax Centre at the address listed on the form;
- completing the appropriate section of form T400A, or by naming a representative in your letter addressed to the Chief of Appeals. This representative will be authorized only for purposes related to the objection; or

- using the online services in My Account at www.cra.gc.ca/myaccount for your personal income tax and benefits, or in My Business Account at www.cra.gc.ca/mybusinessaccount for your corporation and payroll accounts.

To authorize online, you must first register online for the My Account or My Business Account services. In addition, your representative must have registered for the Represent a Client service at www.cra.gc.ca/representatives, and given you their representative identifier or Business Number, so that you can complete the online authorization.

By authorizing a representative online, your representative can represent you through the Represent a Client service and access the “Register a formal dispute” services.

What information should you include?

Include 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 tax year of the assessment;
- your social insurance number or business number;
- the relevant facts and reasons for your objection;
- copies of all 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.

If you are objecting to more than one assessment, you must file a separate notice of objection for each disputed assessment. If the facts and reasons for the objections are identical for more than one assessment, this may be indicated on each notice of objection and one statement of facts may be submitted.

Note

If you include a copy of your notice(s) 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 if necessary contact you or your representative to discuss the matter.

To ensure that you or your representative understand the reasons for the assessment and to provide an open exchange of information, we can provide you with the documents related to the issues in dispute. 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.

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 Appeals Intake Centre or by using the My Account or My Business Account online services on the CRA Internet site. You can find a list of the Appeals Intake Centres in Appendix B. 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 send 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 sent 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 must provide three copies of each of the following documents:

- 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 copies of the documents by fax or by using the Tax Court of Canada's Online Filing System accessible through its website. You can find a list of the Tax Court of Canada offices in Appendix C.

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 notice of appeal within 90 days of the date we send 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 \$25,000 per assessment;
- the disputed loss amount is not more than \$50,000 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 may be more flexible in its application of the rules of evidence. A judgment issued under the informal procedure will not be treated as a precedent for other cases.

Notice of Appeal

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 notice of appeal or in a letter to the Court no later than 90 days after the date we file our reply to your appeal.

Filing

You can file your appeal by delivering or mailing your notice of appeal to the Registry of a Tax Court of Canada office. 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 website. You can find a list of the Tax Court of Canada offices in Appendix C.

Filing fee

There is no filing fee for filing an appeal under the informal procedure.

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

The Tax Court Rules allow the judge to order us to pay part of your legal costs. However, the informal procedure rules do not allow the judge to order you to pay our costs unless your actions have caused undue delay in the resolution of the appeal.

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.

Filing

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

Filing Fee

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

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.

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 sent 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 notice of appeal by fax or by using the Tax Court of Canada's

online document-filing facility accessible through its website. 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 C.

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-days 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 request the Supreme Court's permission. To request the Court's permission, you have to file an application for leave to appeal within 60 days of the date of the Federal Court of Appeal's judgment. The month of July is excluded from the 60 days calculation.

Disputed amounts

Collection procedures

If you file an objection, we usually postpone collection action on amounts in dispute until 90 days after we send 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. If your assessment is in respect of an amount claimed as a charitable donation tax credit or deduction in relation to a tax shelter, we will postpone collection action on 50% of the amount in dispute.

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.

If your assessment is in respect of an amount claimed as a charitable donation tax credit or deduction in relation to a tax shelter, we will only repay 50% of the amount in dispute that was paid.

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 your Appeals Intake Centre in writing. You can find a list of the Appeals Intake Centres in Appendix B.

Forms and publications

To get any forms or publications, go to www.cra.gc.ca/forms or call 1-800-959-8281.

Teletypewriter (TTY) users

TTY users can call 1-800-665-0354 for bilingual assistance during regular business hours.

My Account

My Account is a secure, convenient, and time-saving way to access and manage your tax and benefit information online, seven days a week! If you are not registered with My Account but need information right away, use Quick Access to get fast, easy, and secure access to some of your information now. For more information, go to www.cra.gc.ca/myaccount or see Pamphlet RC4059, *My Account for individuals*.

My Business Account

My Business Account provides business owners (including partners, directors and officers) secure online access to their GST/HST, payroll, corporation income tax and other account information online. For more information, go to www.cra.gc.ca/mybusinessaccount.

Represent a Client

Represent a Client is a secure online service to access tax information and services on behalf of businesses, including your employer. To register, go to www.cra.gc.ca/representatives.

Getting help accessing online services

To get help accessing:

- My Account, or Represent a Client, call 1-800-714-7257.
- My Business Account or Represent a Client, call 1-877-322-7849.

My Payment

My Payment is a payment option that allows individuals and businesses to make payments online, using the Canada Revenue Agency's website, from an account at a participating Canadian financial institution. For more information on this self-service option, go to www.cra.gc.ca/mypayment.

Appendix A – Objection letter

Your address
and telephone number
Date

Chief of Appeals
Western Intake Centre
Burnaby-Fraser Tax Service
Office
9737 King George Boulevard
PO Box 9070 STN Main
Surrey BC V3T 5W6

Chief of Appeals
Eastern Intake Centre
Sudbury Tax Service Office
1050 Notre-Dame Avenue
Sudbury ON P3A 5C1

Re: Objection to 2012 reassessment
(give your social insurance number)

Dear Sir or Madam:

I object to the reassessment of my 2012 income tax return. Please find enclosed a copy of my September 15, 2013, notice of reassessment.

In July 2012, I moved from Vancouver to Edmundston, N.B. to start a new job. I claimed the moving expenses on my 2012 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 Intake Centres

Western Intake Centre
Burnaby-Fraser Tax Service
Office
9737 King George
Boulevard
PO Box 9070, Station Main
Surrey BC V3T 5W6

Eastern Intake Centre
Sudbury Tax Service
Office
1050 Notre-Dame
Avenue
Sudbury ON P3A 5C1

Note

Residents with a Postal Code starting with letters A to P may send their objection to the Eastern Intake Centre, and residents with a Postal Code starting with the letters R to Y may send their objection to the Western Intake Centre.

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
Justice Center (Building
#510)
P.O. Box 297
Iqaluit NU X0A 0H0
Telephone: 867-975-6100
Fax: 867-975-6550

Montréal

Registry of the Tax Court
of Canada
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 and London

Registry of the Tax Court of
Canada
180 Queen Street West
Suite 200
Toronto ON M5V 3L6
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 website 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
250 Albert Street
13th floor
Ottawa ON K1A 0L5**