



Public Practice Bulletin

February 2010

Canada Revenue Agency (CRA) Taxation Filing & Remittance Requirements Annual Publication

To assist Alberta practicing offices, below is a publication reflecting CRA and Alberta standards. ICAA acknowledges Maureen Cush CA of Daye & Company, Edmonton for again providing the technical editorial assistance.

This document is intended as an aid-memoire only and may not be a complete listing of items to be considered. We hope it is helpful.

If you have any comments or questions regarding this material, please contact me at a.budlong@icaa.ab.ca or (780) 420-2355 (Edmonton) or 1-800-232-9406. Additional copies can be accessed at www.icaa.ab.ca.

Allan F. Budlong, FCA
Director, Professional Services, ICAA & ICAS

Public Practice Bulletin is produced jointly by the Institute of Chartered Accountants of Alberta and the Institute of Chartered Accountants of Saskatchewan and distributed as part of the monthly mailing package. Opinions expressed in this bulletin are those of the author and do not reflect the official position of ICAA or ICAS. Any queries regarding this material should be directed to Al Budlong FCA, ICAA and ICAS Director of Professional Services at a.budlong@icaa.ab.ca. This bulletin has been posted to the ICAA and ICAS websites. For additional copies of this advisory, please access www.icaa.ab.ca/publications/technical/member_advisory.shtml or contact Chris Pilger, Director, Member Relations and Communications at c.pilger@icaa.ab.ca or 1-800-232-9406 or (780) 420-2363. In Saskatchewan, please contact Sue James at s.james@icas.sk.ca or (306) 791-4142.

TABLE OF CONTENTS

	<u>Page</u>
Income Tax – General Comments	4
• Received Versus Filed.....	4
• Interest At Prescribed Rate	4
Income Tax Returns – Filing And Remittance Requirements	4
• Personal (T1).....	4
• Corporate (T2).....	4
• Alberta Corporate (AT1)	5
• Trust (T3).....	5
• Penalties (T1, T2, AT1, T3)	5
• Notices Of Objection	5
• Minister's Discretion	6
• Instalments – Personal.....	6
• Instalments – Federal Corporate	6
• Instalments – Alberta Corporate.....	7
• Penalty For Late Or Deficient Instalments (Alberta Corporate, Federal Corporate and Personal)	7
Withholding Remittance Requirements	7
• Payroll Deductions	7
• Non-Resident Tax Deductions.....	8
Information Returns – Filing Requirements	8
• Late-Filing Penalties – T3/T4/T5/NR4 Summary and Supplementaries, T5018 Summary Of Contract Payments And Statement Of Contract Payments, and T5003 Tax Shelter Information Return And Slips	8
• Non-Electronic Filing – T3/T4/T5/NR4 Summary and Supplementaries And T5018 Summary Of Contract Payments And Statement Of Contract Payments	8
• Failure To Provide Social Insurance Number On Information Return.....	8
• T3's, T4's, T5's, NR4's (Summary and Supplementaries)	9
• T5018 Summary Of Contract Payments And Statement Of Contract Payments	9
• T5003, Tax Shelter Information Return	9
• T5013 Summary, Partnership Information Return	9
• T106, Information Return Of Non-Arm's Length Transactions With Non-Resident Persons (Section 233.1 of the Income Tax Act)	10
• T1134-A, Information Return Relating To Foreign Affiliates That Are Not Controlled Foreign Affiliates (Section 233.4 of the Income Tax Act)	10
• T1134-B, Information Return Relating To Controlled Foreign Affiliate (Section 233.4 of the Income Tax Act)	11
• T1142, Information Return In Respect Of Distributions From And Indebtedness To A Non-Resident Trust (Section 233.6 of the Income Tax Act)	11
• T1141, Information Return In Respect of Transfers or Loans To A Non-Resident Trust (Section 233.2 of the Income Tax Act)	11
• T1135, Information Return Relating To Specified Foreign Property (Section 233.3 of the Income Tax Act)	12
• NR6 Undertaking.....	12
• T2062/T2062A/T2062C, Request By A Non-Resident Of Canada For A Certificate Of Compliance Related To The Disposition Of Taxable Canadian Property (Section 116 of the Income Tax Act)	13
• T1161, List Of Properties By An Emigrant Of Canada (Subsection 128.1(9) of the Income Tax Act)	13

GST/HST – Filing And Remittance Requirements 13

- General..... 13
- Threshold Amounts For Determining Reporting Periods 14
- Monthly Reporting 14
- Quarterly Reporting 14
- Annual Reporting..... 14
- Penalty For Late Filing/Payment/Remittance 14
- Penalty For Failure To File After Demand From The Minister 15
- Collection Proceedings..... 15
- Electronic Filing For GST/HST 15

INCOME TAX – GENERAL COMMENTS

Received Versus Filed

- income tax filings sent by first class mail or its equivalent are deemed received when sent (departmental policy on receipt of returns is based on the postmark, not the time the return is placed in the mail box)
- however, the remittance or payment of an amount deducted or withheld (i.e., source deductions, non-resident tax withholdings) or an amount payable by a corporation (i.e., corporate tax) are considered paid when they are RECEIVED by the Receiver General, or by most financial institutions, deposited (watch date stamp at the bank) to account of Receiver General
- ensure mailing with sufficient lead time to meet the deadline

Interest At Prescribed Rate

- interest is COMPOUNDED DAILY on full balance owing including penalties and prior unpaid interest
- interest payable rate is set quarterly at the average rate (rounded upward) on 90 day T-Bills sold during the first month of the preceding quarter, plus 4%
- interest refundable rate is set quarterly at the average rate (rounded upward) on 90 day T-Bills sold during the first month of the preceding quarter, plus 2%
- tax benefit rate is set quarterly at the average rate (rounded upward) on 90 day T-Bills sold during the first month of the preceding quarter, plus 0%
- interest is NOT DEDUCTIBLE which may substantially increase the effective rate (subparagraph 18(1)(t)(i) of the *Income Tax Act* prohibits a deduction from income for any interest, penalties or fines paid under the Income Tax Act)

INCOME TAX RETURNS – FILING AND REMITTANCE REQUIREMENTS

Personal (T1)

- filing and remittance deadline, except for individuals with self employed earnings, is April 30
- for individuals with self employed earnings, the filing deadline is June 15; however, the remittance deadline remains as April 30
- for deceased taxpayers, the filing and remittance deadline is the later of the day on or before which the return would otherwise be required to be filed and the day that is six months after the date of death

Corporate (T2)

- remittance deadline is two months after fiscal year-end for corporations
- there is an exception allowing a corporation to pay its taxes three months after the fiscal year-end if it meets all three conditions listed below (see CRA's T2 Guide T4012 for more details)
 - 1) an amount was deducted as a small business deduction under section 125 of the Income Tax Act for the current year or its preceding taxation year;
 - 2) the corporation, throughout the current year, is a Canadian Controlled Private Corporation ("CCPC"); **and**
 - 3) the taxable income of the corporation for the preceding taxation year does not exceed its business limit for that year. Where corporations are associated, the total taxable income of the associated corporations cannot exceed the total business limits of all the corporations.

Many accountants believe that the only requirement is that the company either be a CCPC or be eligible to claim the small business deduction. The reality is that the small business deduction must actually be claimed in the year in question or the preceding year. Even if the small business deduction is claimed, the corporation's taxable income for the preceding taxation year cannot exceed the small business limit.

- filing deadline is six months after fiscal year-end
- **corporations with gross revenue exceeding \$1,000,000 must file their T2 returns electronically for taxation years ending after 2009. The penalties will be \$250 for tax years ending in 2011, \$500 for tax years ending in 2012, and \$1,000 in subsequent years.**

Alberta Corporate (AT1)

- remittance deadline for balance due is three months after fiscal year-end for Canadian Controlled Private Corporations (CCPCs) who claim the Alberta Small Business Deduction in the current year or the previous year and whose taxable income does not exceed \$500,000, or the CCPC's tax for the current year or its first instalment base is not greater than \$2,000
- remittance deadline is two months after fiscal year-end for other corporations
- filing deadline is six months after fiscal year-end (many corporations will be exempt from filing an AT1 return, see Alberta's Information Circular CT-2 for more details)

Trust (T3)

- filing and remittance deadline is 90 days (not three months) after year-end
- inter vivos trust year-end is required to be December 31
- testamentary trust year-end is as selected by the trustee, not exceeding 12 months after the date of death

Penalties (T1, T2, AT1, T3)

- late filing penalty is 5% of unpaid amount PLUS 1% of unpaid amount for each complete month to a maximum of 12 months
- if previously assessed a late filing penalty within last three years and under demand to file current return, late filing penalty is INCREASED to 10% of unpaid amount PLUS 2% of unpaid amount for each complete month to a maximum of 20 months
- late filing fee of \$10 per day (not exceeding \$50) for failure to file by trustee
- unpaid amounts bear interest at the prescribed rate, compounded daily
- additional penalty for large corporations that fail to file a tax return under Part I or Part VI is 0.0005% of the corporation's taxable capital employed in Canada at the end of the year and 0.25% of the taxes payable by the corporation under Part VI, times the number of complete months (not exceeding 40) that the return is outstanding (see Section 235 of the *Income Tax Act*)
- consider voluntary disclosure for possible penalty waiver (see CRA's *Information Circular 00-1R2* and Alberta's *Information Circular CT-11R2*). Note, there have been recent changes to CRA's "No-name Voluntary Disclosure Policy", including the requirement to file a RC199E form.

Notices Of Objection

- taxpayers, other than large corporations, may initiate the appeal process simply by setting out the facts and reasons for the objection in a letter to the Chief of Appeals in their local Tax Services Office or Taxation Centre (however, the optional form T400A is useful). Large corporations, in addition to facts and reasons, must specify each issue to be decided as well as the relief sought, expressed as the amount of change in a particular balance of the corporation.

- for individuals and testamentary trusts the objection is due on or before the later of (a) one year after the due date of the return, and (b) 90 days (not three months) after the mailing date printed on the notice of assessment
- for other taxpayers, the objection is due on or before 90 days after the mailing date printed on the notice of assessment
- Alberta rules and procedures generally parallel the federal

Minister's Discretion

- Minister has discretion to waive or cancel part or all of a penalty or interest that is payable under the Act
- Minister has discretion to reassess beyond normal reassessment period when requested by a taxpayer
- Minister has discretion to refund an overpayment of tax, even if return is not filed within the three year period (for individuals and testamentary trusts only)
- effective January 1, 2005, these "Taxpayer Relief Rules" will apply only for the previous 10 years
- generally, Minister's discretion is exercised only in extraordinary circumstances beyond the control of taxpayer—see *Information Circular IC07-1 Taxpayer Relief Provisions*
- the Alberta Minister of Finance also has the authority to waive interest or penalties in extraordinary circumstances

Instalments – Personal

- remittance deadline is quarterly
- March 15, June 15, September 15, December 15
- for farmers and fishermen—2/3 on December 31
- interest on late or deficient instalments is charged at the prescribed rate
- the legal representative of an individual is not required to remit income tax instalments that would otherwise become due subsequent to the date of death of the individual
- no instalments necessary if "net taxes owing" for the year or for each of two preceding years are less than \$3,000; "net tax owing" is defined in subsection 156.1(1) of the *Income Tax Act* (if chief source of income is farming or fishing, it is either of the two preceding years)
- the threshold was increased to \$3,000 from \$2,000 effective for 2008 and later taxation years

Instalments – Federal Corporate

- remittance deadline is the anniversary of the month following the year-end and each month thereafter
 - e.g. January 15 year-end, first instalment payment is due February 15
 - January 31 year-end, first instalment payment is due February 28
- interest on late or deficient instalments at the prescribed rate
- the corporate instalment base includes income tax, large corporations tax and certain dividends' tax
- for tax years beginning before 2008, instalment payments are not required if the corporate instalment base is \$1,000 or less in either the current year or immediately preceding year
- for tax years beginning **after 2007**, instalment payments are not required if the corporate instalment base is \$3,000 or less in either the current year or the immediately preceding year
- "Eligible Canadian Controlled Private Corporations (CCPCs)" may now make quarterly instalments for taxation years that begin after 2007. A CCPC is an "eligible CCPC" if:
 - 1) the taxable income of the corporation (together with any associated corporations) for either the current or previous year does not exceed \$500,000;
 - 2) the corporation claimed the small business deduction for either the current or previous year;

- 3) the taxable capital employed in Canada of the corporation does not exceed \$10 million in either the current or previous year; and
- 4) the corporation has filed all returns under the *Income Tax Act* and *Excise Tax Act* in the last 12 months as well as having paid all taxes related to GST, employment insurance, Canada Pension Plan, and income tax for the last 12 months
- **Important: watch for special situations that may affect instalments like short tax years, amalgamations, wind-ups, changes of control, etc.**
- see CRA's Guide T7B Corp for more details

Instalments – Alberta Corporate

- Canadian Controlled Private Corporations (CCPCs) are exempt from paying monthly instalments if the corporation claims the Alberta Small Business Deduction and has taxable income of not greater than \$500,000 in either the current year or the immediately preceding year or the corporation's tax for the current year or its first instalment base is not greater than \$2,000
- corporations which are not CCPCs are also exempt from paying monthly instalments if the corporation's tax for the current year or its first instalment base is not greater than \$2,000 (see Alberta Information Circular CT- 3R2 and Section 38 of the Alberta Corporate Tax Act for more details)
- if monthly instalments are required they are due on the same day as federal instalments
- interest on late or deficient instalments at the prescribed rate

Penalty For Late Or Deficient Instalments (Alberta Corporate, Federal Corporate and Personal)

- in addition to interest charged at prescribed rates, a penalty of 50% of the amount, if any, by which the net instalment interest for the year exceeds the greater of:
 - 1) \$1,000
 - 2) 25% of the instalment interest calculated as if no instalment payment had been made for the year

WITHHOLDING REMITTANCE REQUIREMENTS

Payroll Deductions

- frequency of required remittance depends on the average monthly remittance, based on the second previous calendar year (average monthly remittance based on number of remittances during the year, not one-twelfth of the total remittances during the year)
- the average monthly remittance is determined on an associated corporation basis
- an employer can elect, in due form, to base the frequency of required remittances on the average monthly remittance of the first previous year
- average monthly remittance less than \$15,000
 - due on the 15th of the month following payday
- average monthly remittance from \$15,000 to \$49,999 (Threshold 1)
 - payday from 1st to 15th of month, remittance due on 25th of the same month
 - payday from 16th to end of month, remittance due on 10th of the following month
- **average monthly remittance \$50,000 or over (Threshold 2) must be remitted directly to a Canadian financial institution, except if made to the CRA at least one full day before the due date, then no penalty will be charged**
 - payment determines the remittance date
 - 1st to 7th
 - 8th to 14th
 - 15th to 21st
 - 22nd to the last day of the month

- remittance is due three working days after the end of each period (do not include Saturday, Sunday and statutory holidays)
- if the average monthly withholding for the first or second preceding calendar year is less than \$3,000 and all remittances and returns for payroll and GST accounts were made or filed on time in the preceding 12 months, remittances may be made quarterly (for years prior to 2008, the average monthly withholding threshold was \$1,000)
- if the due date is a Saturday, Sunday or statutory holiday, the remittance is due on the next business day
- where employer has ceased to carry on business, all amounts withheld but not yet remitted shall be remitted within seven days
- penalty for late remittance is 10% x the remittance in excess of \$500 AND if another penalty within the same calendar year, penalty becomes 20% x the remittance in excess of \$500. However, a graduated penalty structure exists such that penalties of 3% will be applied to remittances that are late three days or less, 5% for remittances that are four or five days late, 7% for remittances that are six or seven days late, and 10% for remittances that are eight or more days late. With the introduction of the graduated penalty system, it appears that CRA's administrative policy of allowing a one-time late grace period is no longer applicable.
- late or unpaid remittances bear interest at the prescribed rate

Non-Resident Tax Deductions

- non-resident tax withholdings of Part XIII tax are due on or before the 15th day of the month following the month tax is withheld
- similar penalties apply as for the late remittance of payroll deductions

INFORMATION RETURNS – FILING REQUIREMENTS

Late-Filing Penalties – T3/T4/T5/NR4 Summary and Supplementaries, T5018 Summary Of Contract Payments And Statement Of Contract Payments, and T5003 Tax Shelter Information Return And Slips

- effective January 1, 2010, the penalty for failing to file the above information returns by the due date or for distributing information slips to recipients late is the greater of \$100 or a penalty determined as follows:

Number of Slips or Information Returns	Penalty Per Day
Less than 51	\$10
More than 50 but less than 501	\$15
More than 500 but less than 2,501	\$25
More than 2,500 but less than 10,001	\$50
More than 10,000	\$75

The maximum penalty will be 100 days times the applicable rate.

Non-Electronic Filing – T3/T4/T5/NR4 Summary and Supplementaries And T5018 Summary Of Contract Payments And Statement Of Contract Payments

- effective January 1, 2010, electronic filing is required for the above for more than 50 information slips. The penalties for not electronically filing will be \$250 for 51 to 250 slips or information returns, \$500 for 251 to 500, \$1,500 for 501 to 2,500, and \$2,500 for more than 2,500. CRA is, however, allowing a one-year transitional period before assessing penalties.

Failure To Provide Social Insurance Number On Information Return

- penalty of \$100 per deficient information slip if you do not make reasonable effort to obtain the information

T3s, T4s, T5s, NR4s (Summary and Supplementaries)

- unless otherwise specified, filing deadline for T4 and T5 returns is the last day of February
- if the business or activity is discontinued, the deadline is accelerated to 30 days after discontinuance of the business or activity
- the NR4 return must be filed on or before March 31 of the following year. If the NR4 return relates to income from a trust or estate, then it must be filed no later than 90 days from the end of the trust's or estate's taxation year.
- T3s filing deadline is the same as the T3 Return (which is due within 90 days after the end of the trust's taxation year)
- unpaid or late remittances bear interest at the prescribed rate
- be sure to prepare and file T5s for related corporations, even if these slips are not relied on, as penalties will apply
- T5s are also required for most deemed dividends

T5018 Summary Of Contract Payments And Statement Of Contract Payments

- individuals, partnerships, trusts or corporations with construction as the primary business activity are required to file an information return consisting of a T5018 *Summary of Contracts Payments* and T5018 supplementary slips; however certain other filing formats are acceptable
- filing deadline is six months after the end of the chosen reporting period, payments can be reported on a calendar or fiscal year basis
- a T5018 return is to be filed for reporting periods beginning January 1, 1999 (the first filing deadline was June 30, 2000)
- CRA appears to now be taking steps to enforce filing

T5003, Tax Shelter Information Return

- filing deadline is the last day of February of the year following the year in which any tax shelter interests are sold (accelerated to 30 days after discontinuance of the business or activity)
- penalty for filing false or misleading information or selling an interest in a tax shelter before a number is issued is the greater of:
 - \$500
 - 25% of the amounts of the consideration received or receivable, in respect of the tax shelter, before the tax shelter number was issued

T5013 Summary, Partnership Information Return

- filing deadline is based on the following:
 - if all partners are corporations, deadline is five months after partnership year-end
 - if all partners are individuals, deadline is March 31 after the calendar year in which the fiscal period of the partnership ended
 - if partners are both individuals and corporations, deadline is the earlier of the above deadlines
 - if partnership discontinues its business or activity, the deadline is accelerated to the earlier of 90 days after the discontinuance and the filing deadline in the absence of the discontinuance of business or activity
 - if five or fewer partners, and none of those partners is another partnership, partnership is exempt from filing; however, it may be prudent to file even if a partnership is exempt from doing so, because filing starts the statute-barred clock and may protect partners from a potentially unlimited reassessment period. CRA's 2006 *T5013 Guide* indicated that a T5013 return would now be required for

partnerships that have five or fewer members if any of the members are corporations or trusts. However, on March 29, 2007, CRA announced that such filings will not be required, but changes are being considered. This has been clarified in CRA's Guide T4068-1.

- penalty for non-compliance is:
 - first offence \$25 per day (minimum of \$100) to a maximum of \$2,500
 - repeat offenders \$100/partner for each month or part-month, to a maximum of 24 months PLUS the \$25 per day penalty above

T106, Information Return Of Non-Arm's Length Transactions With Non-Resident Persons (Section 233.1 of the Income Tax Act)

- individuals, corporations, trusts and partnerships resident in Canada (in the case of partnerships, if at least one partner is a Canadian resident) or carrying on business in Canada are required to file Form T106 if total "reportable transactions" exceed Cdn \$1,000,000
- reportable transactions are non-arm's length transactions with non-residents
- filing deadline is the applicable Canadian filing deadline for a corporation, partnership, trust or individual (separate from income tax return)
- penalty for failure to file is \$25 per day (minimum of \$100) to a maximum of \$2,500 (note: penalty applies to each non-resident)
- penalty for failure to file where the entity knowingly or under circumstances amounting to gross negligence fails to file form T106 or knowingly or under circumstances amounting to gross negligence fails to comply with a demand to file is \$500 per month or part month to a maximum of \$12,000 (\$1,000 per month or part month to a maximum of \$24,000 if fail to comply with a demand to file) less the \$25 per day penalty for failure to file
- penalty for knowingly or under circumstances amounting to gross negligence makes, or participates in, assents to, or acquiesces in the making of a false statement or omission is \$24,000

T1134-A, Information Return Relating To Foreign Affiliates That Are Not Controlled Foreign Affiliates (Section 233.4 of the Income Tax Act) [Note: Changes included in Former Bill C-10 (which has not yet been reintroduced) will impact Section 233.4 for years that begin after 2006]

- reporting is generally required of a taxpayer resident in Canada or a partnership of which a non-resident corporation or a non-resident trust is a foreign affiliate (other than a controlled foreign affiliate)
- filing deadline is fifteen months after end of Canadian taxpayer's taxation year (separate from income tax return)
- T1134-A to be filed for each taxation year beginning after 1995 (the first filing deadline was June 30, 1998)
- penalty for failure to file is \$25 per day (minimum of \$100) to a maximum of \$2,500
- penalty for failure to file where the Canadian taxpayer knowingly or under circumstances amounting to gross negligence fails to file or knowingly or under circumstances amounting to gross negligence fails to comply with a demand to file is \$500 per month or part month to a maximum of \$12,000 (\$1,000 per month or part month to a maximum of \$24,000 if fail to comply with a demand to file) less the \$25 per day penalty for failure to file
- additional penalty, if return is more than 24 months late and the \$500 (or \$1,000) per month penalty applies, equal to 5% of the total cost amount of the taxpayer's shares and indebtedness of foreign affiliates less the \$25 per day and the \$500 (or \$1,000) per month penalties
- penalty for knowingly or under circumstances amounting to gross negligence makes, or participates in, assents to, or acquiesces in the making of a false statement or omission is greater of \$24,000 and 5% of the greatest of all amounts which is the total of the cost amounts to the reporting entity of the shares or indebtedness of the foreign affiliate being reported on
- no form is required for the first year in which a reporting entity who is an individual first becomes a resident of Canada

T1134-B, Information Return Relating To Controlled Foreign Affiliate (Section 233.4 of the Income Tax Act) [Note: Changes included in Former Bill C-10 (which has not yet been reintroduced) will impact Section 233.4 for years that begin after 2006]

- reporting is generally required of a taxpayer resident in Canada or a partnership of which a non-resident corporation or a non-resident trust is a controlled foreign affiliate
- filing deadline is fifteen months after end of Canadian taxpayer's taxation year (separate from income tax return)
- T1134-B to be filed for each taxation year beginning after 1995 (the first filing deadline was June 30, 1998)
- penalty for failure to file is \$25 per day (minimum of \$100) to a maximum of \$2,500
- penalty for failure to file where the Canadian taxpayer knowingly or under circumstances amounting to gross negligence fails to file or knowingly or under circumstances amounting to gross negligence fails to comply with a demand to file is \$500 per month or part month to a maximum of \$12,000 (\$1,000 per month or part month to a maximum of \$24,000 if fail to comply with a demand to file) less the \$25 per day penalty for failure to file
- additional penalty, if return is more than 24 months late and the \$500 (or \$1,000) per month penalty applies, equal to 5% of the total cost amount of the taxpayer's shares and indebtedness of foreign affiliates less the \$25 per day and the \$500 (or \$1,000) per month penalties
- penalty for knowingly or under circumstances amounting to gross negligence makes, or participates in, assents to, or acquiesces in the making of a false statement or omission is greater of \$24,000 and 5% of the greatest of all amounts which is the total of the cost amounts to the reporting entity of the shares or indebtedness of the foreign affiliate being reported on
- no form is required for the first year in which a reporting entity who is an individual first becomes a resident of Canada

T1142, Information Return In Respect Of Distributions From And Indebtedness To A Non-Resident Trust (Section 233.6 of the Income Tax Act)

- reporting is generally required of a taxpayer resident in Canada or a partnership who received distributions from, or who are indebted to, certain non-resident trusts in which they are beneficially interested
- filing deadline is the Canadian taxpayer income tax return filing due date for the taxation year distribution was received or during which it was indebted to the non-resident trust (separate from income tax return)
- T1142 to be filed for each taxation year beginning after 1995 (the first filing deadline was April 30, 1998)
- penalty for failure to file is \$25 per day (minimum of \$100) to a maximum of \$2,500
- penalty for knowingly or under circumstances amounting to gross negligence makes, or participates in, assents to, or acquiesces in the making of a false statement is greater of \$2,500 and 5% of the total of all amounts which are the fair market value of the property distributed and all amounts which is the greatest unpaid principal amount of a debt in respect of which the false statements or omissions are made
- no form is required for the first year in which a reporting entity who is an individual first becomes a resident of Canada

T1141, Information Return In Respect Of Transfers Or Loans To A Non-Resident Trust (Section 233.2 of the Income Tax Act) [Note: Changes included in Former Bill C-10 (which has not yet been reintroduced) will impact Section 233.2 for years that begin after 2006]

- reporting may be required of a taxpayer resident in Canada or a partnership who transferred or loaned money to a non-resident trust
- filing deadline is the due date for the Canadian taxpayer's tax return for the taxation year of the trust during which the transfer or loan was made that ends in the Canadian taxpayer's tax year (separate from income tax return)

- T1141 to be filed for each taxation year beginning after 1995 (the first filing deadline was April 30, 1998)
- penalty for failure to file is \$25 per day (minimum of \$100) to a maximum of \$2,500
- penalty for failure to file where the Canadian taxpayer knowingly or under circumstances amounting to gross negligence fails to file or knowingly or under circumstances amounting to gross negligence fails to comply with a demand to file is \$500 per month or part month to a maximum of \$12,000 (\$1,000 per month or part month to a maximum of \$24,000 if fail to comply with a demand to file) less the \$25 per day penalty for failure to file
- additional penalty, if return is more than 24 months late and the \$500 (or \$1,000) per month penalty applies, equal to 5% of the fair market value of the property transferred or loaned (proposed amendment – fair market value of “contribution”) less the \$25 per day and the \$500 (or \$1,000) per month penalties
- penalty for knowingly or under circumstances amounting to gross negligence makes, or participates in, assents to, or acquiesces in the making of a false statement or omission is greater of \$24,000 and 5% of the fair market value of the property transferred or loaned
- no form is required for the first year in which a reporting entity who is an individual first becomes a resident of Canada

T1135, Information Return Relating To Specified Foreign Property (Section 233.3 of the Income Tax Act) [Note: Changes included in Former Bill C-10 (which has not yet been reintroduced) will impact Section 233.3 for years that begin after 2006]

- filing required by a “reporting entity,” which could be a Canadian resident individual, corporation, trust, or partnership, who held certain property outside Canada with a total cost of \$100,000 or more at any time in the tax year
- filing deadline is later of April 30, 1999 or the Canadian entity’s income tax return filing due date (filed with tax return)
- T1135 to be filed for Canadian entity’s 1998 and subsequent taxation years
- the form includes a box to check if you hold property costing less than \$100,000
- penalty for failure to file is \$25 per day (minimum of \$100) to a maximum of \$2,500
- penalty for failure to file where the Canadian taxpayer knowingly or under circumstances amounting to gross negligence fails to file or knowingly or under circumstances amounting to gross negligence fails to comply with a demand to file is \$500 per month or part month to a maximum of \$12,000 (\$1,000 per month or part month to a maximum of \$24,000 if fail to comply with a demand to file) less the \$25 per day penalty for failure to file
- additional penalty, if return is more than 24 months late and the \$500 (or \$1,000) per month penalty applies, equal to 5% of the total cost amount of the entity’s specified foreign property less the \$25 per day and the \$500 (or \$1,000) per month penalties
- penalty for knowingly or under circumstances amounting to gross negligence makes, or participates in, assents to, or acquiesces in the making of a false statement or omission is greater of \$24,000 and 5% of the greatest of all amounts which is the total of the cost amounts to the reporting entity of the specified foreign property being reported on
- no form is required for the first year in which a reporting entity who is an individual first becomes a resident of Canada

NR6 Undertaking

- this return is an undertaking to file an income tax return by a non-resident receiving rent from real property or receiving a timber royalty
- filing deadline is annually on the first day of each taxation year or the first of the month when the non-resident first begins to receive income
- if the non-resident does not file or fulfill the commitment, the agent must deduct and remit to CRA 25% of the gross amounts as non-resident tax

- if an NR6 is filed, the return must be filed within six months after the end of the tax year for which the undertaking is filed

T2062/T2062A/T2062C, Request By A Non-Resident Of Canada For A Certificate Of Compliance Related To The Disposition Of Taxable Canadian Property (Section 116 of the Income Tax Act)

- filing required by non-resident vendors of certain “Taxable Canadian Property” either before or after disposition (**this includes amounts received by a non-resident in satisfaction of their capital interest in a testamentary trust**)
- filing deadline, with certain exceptions, is within 10 days of disposing of taxable Canadian property (this is 10 actual days, not business days)
- if a certificate of compliance is not obtained, the purchaser is exposed to a penalty of up to 25% of the purchase price (50% for inventory and depreciable property)
- for dispositions after 2008, a certificate of compliance is not required for treaty-protected property. Form T2062C is filed by the purchaser within 30 days of the acquisition.
- penalty for failure to file is \$25 per day (minimum of \$100) to a maximum of \$2,500
- recently CRA has become more stringent in the assessing of penalties

T1161, List Of Properties By An Emigrant Of Canada (Subsection 128.1(9) of the Income Tax Act)

- filing required by an individual taxpayer who ceases Canadian residency and has reportable properties valued at more than \$25,000
- filing deadline is the individual’s tax return filing deadline for the year residency ceased (filed with tax return)
- penalty for failure to file is \$25 per day (minimum of \$100) to a maximum of \$2,500

GST/HST* – FILING AND REMITTANCE REQUIREMENTS

[Note: Registration is required if you provide taxable goods or services in Canada and you are not a “small supplier.” If you and all associated parties make worldwide “taxable” supplies in excess of \$30,000 (\$50,000 for public service bodies) in a single calendar quarter or in any four consecutive calendar quarters, you cease to be a “small supplier” and must register for Goods and Services Tax (“GST”) and Harmonized Sales Tax (“HST”) purposes. “Taxable” supplies include zero rated supplies, but not financial services, the sale of capital assets or the sale of goodwill.]

* With BC and Ontario adopting HST, all GST registrants in Alberta may be collecting and paying HST and will report the two taxes together

General

- registrant must file a return for each reporting period
- reporting period can be a fiscal or calendar month, quarter or year
- non-registrants have a monthly reporting period with one month to file
- year-end for GST/HST purposes must be fiscal year-end or December 31

Threshold Amounts For Determining Reporting Periods

- based on “taxable supplies” made in Canada in the preceding fiscal year or the total for all completed fiscal quarters ending in the current fiscal year

- “taxable supplies” for the threshold include zero rated sales of the person or associates, but not financial services, sales of capital assets and zero rated exports

Monthly Reporting

- required if threshold amount for fiscal quarter or fiscal year exceeds \$6 million: change is effective the first day of the next fiscal quarter
- GST/HST return and payment of Net Tax is due by the end of the month following the reporting period
- registrant can voluntarily elect to report monthly by filing GST Form 20 with the CRA

Quarterly Reporting

- required if threshold amount for the first or second fiscal quarter exceeds \$1,500,000: change to quarterly is effective the first day of the next fiscal quarter
- required if threshold amount for the fiscal year exceeds \$1,500,000: change to quarterly begins with first day of next fiscal year
- GST/HST return and payment of Net Tax due within a month of the end of the quarter
- registrant can elect to file quarterly even if they qualify for annual filing

Annual Reporting

- this is the default reporting period for new registrants (since April 1, 1994); previously, quarterly was default and annual reporting required an election
- charities can elect for annual filing regardless of their threshold amount
- annual GST/HST return (and payment of Net Tax) must be filed within three months of the period end unless the registrant is an individual
- individual registrants that are annual filers have a December 31 year end, and their return is due by June 15th of the next year with Net Tax payable by April 30th
- instalments are required to be paid by an annual filer within one month of the end of each of the first three fiscal quarters, unless the instalment base is less than \$3,000 (this limit was \$1,500 for fiscal years that began before January 1, 2008)
- instalments are $\frac{1}{4}$ of the “instalment base”
- if the instalment base is less than \$3,000 (\$1,500 before 2008), instalment is zero
- late payment of the required instalment will generate non-deductible interest

Penalty For Late Filing/Payment/Remittance

- for GST/HST reporting periods ending after March 31, 2007 late payment interest will be charged at the T-Bill rate rounded up to the nearest percent plus 4%
- for GST/HST reporting periods ending before April 2007 late payments will be charged interest at the quarterly prescribed rate plus a 6% penalty
- GST/HST interest and the 6% penalty were deductible for income tax purposes, but for all income tax years beginning after March 31, 2007 only the 6% penalty will be deductible and it will only be assessed for periods ending prior to April 2007
- commencing April 1, 2007 there is a penalty for late filed returns equal to 1% of any unpaid amount plus $\frac{1}{4}$ % for each complete month the return is outstanding, to a maximum of 12 months (total penalty maxes at 4%)
- for purposes of the late filing penalty all reporting periods ending before March 2007 are deemed to have a March 31, 2007 deadline

- this penalty can't be levied on late filed refund returns, but should an audit create a net payable for the period the penalty will apply to unpaid balances
- all GST/HST-based interest and penalties are compounded daily
- penalties and interest can be cancelled at the discretion of the Minister but there are firm guidelines as to when this can occur (taxpayer relief policy)
- returns and other documents are deemed received by the Minister on the day they are mailed (so keep evidence) but payments must actually be received by the Canada Revenue Agency or by a participating financial institution (with the proper remittance form) to avoid late charges

Penalty For Failure To File A Return After Demand From The Minister

- for demands issued after April 1, 2007 the penalty is \$250 per return
- for demands issued prior to April 2007 the penalty was the greater of \$250 and 5% of the unpaid amount of tax payable or net tax remittable

Collections Proceedings

- the only prerequisite to taking collection action is the issuance of an assessment
- collection action is allowed even if a Notice of Objection has been filed, but the Minister has discretion to postpone collection where the person did not collect tax or has a reasonable chance for success (for example, new documentation or facts)
- effective April 2007 the Minister can withhold any amount owing to a registrant if there is any return or payment outstanding and can apply the credit against any debt owed to the Crown with few restrictions
- **notional assessments are issued once a person has more than one GST/HST return outstanding.** These are always payable amounts and normal collection actions will result until the assessment is paid or is supplanted by filing the returns. This applies even if all previous returns were refunds

Electronic Filing For GST/HST

- while NetFile and TeleFile have been optional in recent years, for all reporting periods ending after June 30, 2010, it will be mandatory for certain registrants. Failure to file electronically when required to do so is subject to penalty. Failure to complete required information can also be penalized.
- businesses required to recapture restricted ITCs for the provincial portion of HST will have to report using GST/HST NetFile and must segregate the recapture between the two provinces
- builders who sell "grandparented" houses or who will be reporting transitional tax adjustments or a provincial transitional new housing rebate also must use NetFile after June 30, 2010
- builders not required to NetFile (by the above rules) are required to file with NetFile or TeleFile if they have greater than \$1.5 million in annual taxable supplies and pay or credit a GST/HST new housing rebate
- businesses (other than charities) not included above that have annual taxable supplies exceeding \$1.5 million MUST FILE ELECTRONICALLY but may use NetFile, TeleFile or one of two new methods: Electronic Data Interchange ("EDI") or GST/HST Internet File Transfer ("GIFT")
- EDI allows electronic payment of net tax, but registrants can use "My Payment" or pay at a local CRA cash window or a participating Canadian financial institution. Payment must be received by the due date.
- There may be glitches with electronic filing where support schedules are required. Please check with the CRA regarding this.