

Andréa Agnoloni



Pay Up or Else!

By the time you read this, you likely will have filed your 2015 Personal Income Tax Return.

The best scenario is you either owe no tax or you are not owed a tax refund.

But if you earned income from a business or from investments and did not make any installment payments during the year, it's very likely you will owe tax to Canada Revenue Agency.

CRA is the official collection agent, not just for income taxes but for other programs such as GST, payroll deductions, EI and CPP overpayments, overpayments of benefits like the Canada Child Tax Benefit and the GST credits, and defaulted Canada Student Loans.

CRA has powerful authority and powers to collect tax debts. It should not be ignored.

If a taxpayer has a tax liability but for unforeseen reason is not able

to pay, the first rule is "Do not ignore CRA's request to pay." Communicate with CRA and make arrangements to pay the debt over time.

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When negotiating debt repayments, the taxpayer may have to make a full financial disclosure, to prove the financial difficulty.

CRA may grant relief by cancelling or waiving penalties or interest when extraordinary circumstances beyond the taxpayer's control have occurred such as natural or human-made disasters, civil disturbances or disruption of service, serious illness or accident, or serious emotional or mental distress, or the taxpayer is unable to pay due to job loss or

if paying the debt would cause the inability to provide basic necessities.

On the other hand, if a taxpayer ignores the requests for payment, CRA has a few strategies to ensure the tax debt is paid.

Statutory Set-Offs

CRA can hold back any refunds owed to the taxpayer by the government and apply them to the outstanding debt. For example, CRA can offset Old Age Security, Guaranteed Income Supplement, and GST credit cheques to pay the income tax debt.

Garnishments

CRA garnishment orders allow CRA to issue Requirement to Pay (RTP) letters to employers, banks, and business customers to ask them to re-direct to CRA all or part of the payments owed to the taxpayer, to settle the outstanding debt. The orders are binding on the recipients; they can be held liable if payments are not withheld.



Seizing and Selling Assets

CRA can get a writ or memorial* and seize the assets and property of the tax debtor. The assets include cars, boats, and real estate. The property is sold by a Court enforcement officer and the proceeds from the sale, less reasonable selling costs, are applied to the outstanding debt.

**A written statement of facts presented to a sovereign, a legislative body... as the ground of, or expressed in the form of, a petition or remonstrance.*

Placing a Lien on a Property

CRA may place a lien on a property such as the principal residence. That can trigger unwanted reactions by the lender or the taxpayer may have difficulty in selling or refinancing the property.

Holding Another Party Jointly Responsible for a Debt

CRA may hold a third party jointly responsible for the debt. The third party could be the spouse, a business partner, or a related corporation.

For example, CRA can hold the Directors of a corporation liable for the unremitted GST or payroll deductions or, if the taxpayer has transferred an asset to a related person for less than fair market value consideration, the recipient of the property is liable to CRA for all or part of the outstanding debt.

Because more and more individuals seem to fall into that trap, that can be the subject for my next article.

In the end, when the going gets tough and finances are tight, it is not a good idea to ignore CRA; that tends to create a lot more unwanted stress and the problem will not go away. Pro-active communication with CRA can produce positive results from a negative situation.

Please consult a financial professional to discuss your specific situation. ▲

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