

Underwater? CRA relief may be available

Moody's
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Southern Alberta was recently hit by the worst flooding the Province has ever seen according to Premier Redford – but in true Alberta spirit, the Province is rallying together to recover from this natural disaster!

With respect to tax obligations, it is important to note that if you or your business were unable to meet some of your tax obligations due to the recent flooding, relief from the Canada Revenue Agency (the “CRA”) may be available. The Minister of National Revenue (the “Minister”) reminded taxpayers of the availability of the taxpayer relief provisions in respect of the Alberta floods in a [press release](#) on June 22, 2013. An example of relief for corporations who are unable to file their T2 taxation returns by July 2, 2013 was noted in the release. It's important to remember that the taxpayer relief provisions are available to all taxpayers including individuals, partnerships, organizations, trusts and goods and services tax (“GST”) registrants. Therefore, taxpayer relief may be available in circumstances where a taxpayer is late filing their GST return or remitting the requisite GST due to disruptions caused by the recent floods.

Generally speaking, when a taxpayer does not file the requisite form and remit the appropriate monies to the CRA as required by law, the taxpayer is subject to a prescribed penalty of a fixed amount as well as interest charges on the balance outstanding. Taxpayer relief provisions, found in subsection 220(3.1) of the *Income Tax Act* and section 281.1 of the *Excise Tax Act*, allow the Minister to cancel or waive interest and penalties in full or part. Technically, cancellation refers to penalties and interest which are already assessed for which relief is granted, while waiver refers to penalties and interest that are not yet assessed for which relief is granted. The taxpayer relief provisions are not limited to any specific situation, although the CRA in their publications [Information Circular 07-1](#) and [GST/HST Memoranda Series 16.3](#) refer to situations where relief may be granted as comprising of three broad categories: circumstances beyond the control of the taxpayer (i.e. natural disasters); actions of the CRA (i.e. mistake made by the CRA in assessing a taxpayer); and inability to pay or financial hardship of a taxpayer (collectively referred to as the “Circumstance”).

The taxpayer relief provisions are not applied automatically by the CRA – you must request the application of the taxpayer relief provisions to your Circumstance. To have the Minister consider the availability of the taxpayer relief provisions to your Circumstance, use [Form RC4288](#) and be sure to include the following information: your contact information; your social insurance number or GST registration number; the taxation years involved; the facts and reasons surrounding the Circumstance; details of how the Circumstance affected your ability to meet your tax obligations; relevant documentation; and a history of steps taken to resolve the non-compliance. In addition, if the Circumstance involved incorrect CRA information or financial hardship/inability to pay, additional information ([noted here](#)) is required to be submitted with your request. If you reside in Alberta, send your completed request for taxpayer relief to the [Winnipeg Tax Centre](#). Keep in mind that the taxpayer relief provisions are discretionary meaning that Minister can choose to apply or not apply the taxpayer relief provisions to a given situation. This exercise of discretion by the Minister, delegated to the CRA in practice, is subject to court supervision through a process known as judicial review where the Federal

Court of Canada will determine, on an application brought before the Court, if the exercise of the Minister's discretion was reasonable in the circumstances.

The CRA granted relief from interest and penalties under the taxpayer relief provisions to many taxpayers who were affected by the tragic Slave Lake fires that occurred in 2011. If you were fortunate enough to not be negatively impacted by these unprecedented natural disasters in Alberta, it should be noted that the taxpayer relief provisions are not limited to specific situations nor are they limited to the current taxation year. Generally speaking, a taxpayer relief request is available for the 2003 and later taxation years. For more information, please see the CRA's [website](#) or feel free to contact us to discuss your own situation.