AdvocateDaily.com
CANADA'S LEGAL NEWSWIRE

Tax

# Meeting CRA deadlines critical in audit process

**By AdvocateDaily.com Staff**

A number of circumstances may put an individual or business on the Canada Revenue Agency's (CRA) radar — but when an audit letter does arrive, it is crucial for taxpayers to respond to the request in a timely manner, Toronto tax litigator Adrienne Woodyard tells Investment Executive TV.

In part one of the four-part series on IE TV, Woodyard, a partner with DLA Piper (Canada) LLP, outlines a few situations that are likely to get a CRA auditor's attention — for example, failing to file returns, filing late, or large variations in a taxpayer's income and expenses.

The latter may cause the CRA to become "suspicious that excess expenses are being deducted or [that] income is being underreported," she says.

In addition, says Woodyard, new GST/HST registrants will likely go through a GST/HST audit, usually within the first six years, which the CRA does "to make sure that businesses are compliant going forward."

"CRA does those audits because they like to make sure that businesses are compliant going forward."

Upon receiving notice that you are being audited by the CRA, Woodyard says it is important to note the deadline in the letter.

"Among other things, you [need to] find out when the CRA is expecting the information from you. Lots of taxpayers open the letter, put it aside, forget about it for a few weeks and then find themselves scrambling to meet the deadline."

Also, she says, taxpayers should understand exactly what the CRA is asking for.

"If they have flagged an issue and you're worried about what your response is going to be, you probably want to call in a professional," she says.

Although it is possible to delegate communications with the CRA to your accountant as long as you authorize them properly, Woodyard says you will still want to keep an eye on the process to make sure that deadlines are being met and that your accountant has everything they need.

Ultimately, Woodyard says taxpayers will want to make sure they are responsive to the request.

"If the request looks overly broad, there's nothing wrong with calling the auditor and explaining to them that what they're asking for [may involve] more documents then they… realize. But you want to make sure that you're actually addressing… the request. A lot of taxpayers get into trouble when they're avoiding providing information that the CRA has requested, or they don't provide it in a timely way."

Even if you pass the audit with flying colours, Woodyard says it is important to keep up the document retention practices you had that allowed you to give the CRA everything they were looking for.

"Just because you've been through an income tax audit, doesn't mean you're going to be exempt from another… audit" she adds.

When it comes to retaining tax documents, Woodyard says the general rule is that taxpayers need to keep information for at least six years beyond the end of the taxation year to which they relate. In many cases, however, documents may need to be kept for longer.

"If you're holding a long-term investment, say for 20 years, and you finally sell it, in that year of sale you're going to need the record of purchase so that you can prove what the cost of the asset was," says Woodyard.

Also, she says, those who file a late return need to remember that the six-year period doesn't start to run until the return is filed.

"And if you have any kind of an issue or dispute with CRA over a tax filing, you need to keep your records [for] at least as long as that dispute is still active."

In most cases, says Woodyard, the CRA will accept electronic records, but she stresses the need to make sure documents are secure, via a hard drive back-up, for example.

In part three of the series, Woodyard notes that the most common errors individual taxpayers make involve bad record-keeping and not starting the filing process early enough.

"If you're not keeping your records organized, it makes it that much harder to get everything together when it's time to prepare your tax return. And if you don't start early enough, everything's rushed — it's easy to miss something," she explains.

Even if it is an accountant who makes the error, Woodyard says taxpayers are ultimately responsible for the content of their returns.

"Taxpayers are also expected to do a review of their tax returns to make sure the accountant hasn't missed something, to make sure everything's correct," she says.

Depending on the magnitude of the mistake, says Woodyard, a taxpayer may want to seek professional advice, as there may be a penalty associated with it.

"There's a slew of penalty provisions in the *Income Tax Act*. So you want to know exactly what you're up against, and how to go about correcting it."

As Woodyard notes in part four of the series, there are many ways in which an individual can incur tax penalties under the *Income Tax Act*, with under-reporting income being one common mistake.

“It’s easy to miss, for example, a T-slip,” she says, “and if that happens repeatedly that can lead to penalties.”

Woodyard also identifies the late filing of returns as a typical source of penalties, and notes that “if you late-file returns repeatedly when there’s tax owing, penalties can be up to 50 per cent,” she explains.

Depending on the facts of the case, Woodyard adds, you might be able to get relief from a penalty and interest that would otherwise apply under Taxpayer Relief program.

Specific taxpayer relief provisions, for example, concern TFSAs.

“When TFSAs first came out, there was a lot of confusion about what the rules were and a lot of people inadvertently over-contributed to their TFSAs.” As Woodyard explains, relief from the TFSA penalty tax may be available.

However, Woodyard emphasizes the fact that a relief application needs to be as complete as possible.

“Lots of taxpayers apply for relief and are denied because they haven’t provided enough supporting documentation, or they haven’t explained fully the circumstances that led to the error or omission in their returns.

“The CRA has to follow certain guidelines when they’re administering the relief program and they’re not inclined to go beyond those guidelines so you have to make it very explicit and very clear why you’re entitled to the relief,” she adds.