

On May 12, 2021, a remission order that would allow this relief was released. For the debt to be remitted, individuals will need to file their 2019 and 2020 tax returns before December 31, 2022. The explanatory notes also indicated that CRA estimates approximately 30,000 individuals will benefit from this remission order.



Individuals who have already repaid CERB due to their net income being less than \$5,000 (but meeting all other eligibility criteria) will need to apply by completing Form T180 to get reimbursed for their repayment. Eligible applicants can expect reimbursements within about 90 days of submitting their applications. It is estimated that approximately 6,500 individuals could receive this type of reimbursement. CRA has also noted that, if a taxpayer is reimbursed for their CERB payment repaid in 2020, CRA may reassess their 2020 tax return.

ACTION ITEM: If you repaid CERB for the above reasons, make sure to apply to have the amount reimbursed.

TFSA: Excess Contributions



Individuals who contribute excess amounts into their TFSA are subject to a penalty tax of 1%/month on the excess amount for each month that the TFSA is overcontributed. However, CRA has the discretion to waive this penalty tax if the excess amount resulted from reasonable error

and the excess contribution, plus any income or capital gains reasonably attributable to them, is withdrawn without delay.

CRA recently considered whether relief on this penalty tax could be provided where the value of the TFSA had reduced to nil. They opined that, as the excess contribution could not be withdrawn without delay, they would not have the discretion to waive the penalty tax. As such, the penalty tax would continue to apply until the individual accumulated enough additional TFSA room to cover the excess contribution.

ACTION ITEM: Under the facts above, CRA does not believe they have the discretion to waive the penalty tax on an excess TFSA contribution. Even where they have that discretion, they often refuse to waive the tax. Care should be afforded to ensure not to make excess TFSA contributions, and if an error is made, it should be corrected as soon as possible.

WILL AND BENEFICIARY DESIGNATIONS: Are they current?

RRSP designations

A May 10, 2021 CBC article demonstrated the importance of reviewing RRSP beneficiary designations. The article discussed the unfortunate cascade of events where, in 2018, a 50-year-old individual went to the hospital for stomach pain and was diagnosed with cancer. He passed away three weeks later, leaving a spouse and a child. It appeared as if the deceased had not reviewed the designated beneficiary on his \$685,000 RRSP, which remained his mother from the time when he had originally set it up while single. Not only did this mean that the surviving spouse and child would not receive these savings, but also that they were effectively liable for the tax on the RRSP funds. Although the will included a clause making the spouse the 100% beneficiary of the estate, this did not override the RRSP beneficiary designation.

While the spouse and mother were able to settle and cover the tax bill with the proceeds of a life insurance policy, the case serves as a good reminder to review whether insurance and registered account beneficiary designations match the current intent of the parties.

Wills

In a March 16, 2021 Ontario Court of Appeal case, a dispute arose over the interpretation of a will regarding how proceeds from the sale of a cottage were to be distributed. As the deceased's daughters held a life interest in the cottage, the cottage was not sold until more than 40 years after the original owner's death. The proceeds from the sale of the cottage were to go to the grandchildren. However, within the 40-year period, one of the grandchildren passed away. At issue was whether the proceeds should be split among the four surviving grandchildren, or in five parts, with the deceased grandchild's estate and beneficiaries receiving a fifth.



The court used the "armchair rule," which seeks to interpret the will using the same knowledge that the testator had when making the will, and determined that it should be divided into four.

ACTION ITEM: Ensure to review wills and beneficiary designations when major life events or changes in the family occur. Death or critical illness/injury can arrive unexpectedly, limiting the possibility of estate planning updates that can compound the emotional strife of loved ones after an individual's passing.

Tax Tips & Traps

CRA OR SCAMMER: Who is it?

Most, if not all of us, have received a **call** from someone **claiming to be from CRA**. They may threaten arrest or other such actions if a tax bill is not immediately paid via iTunes or Bitcoin, for example. While some of these calls have become easier to identify as fraudulent, scamming techniques and systems constantly evolve.



On May 26, 2021, CRA released a Tax Tip which discussed **why** a taxpayer might be contacted by CRA, **when** to be **suspicious**, and **how** to **report potential scams**.

Some **signs** indicating that the caller may be a scammer include:

- they do not provide **proof of CRA employment** (such as a name and an office location);
- they **pressure** you to **act immediately**;
- they ask you to **pay with gift cards**, cryptocurrency or some other unusual manner;

- they **ask for information not normally** included on your tax return or not related to amounts owed CRA, such as a credit card number; and
- they **recommend** you apply for **benefits** and ask for related information.

To **verify** a caller is a CRA employee, CRA recommends that an individual:

- **tell** the caller that they first want to **verify** their identity;
- **ask** for, and note the caller's **name**, phone number, and office location;
- **call** the **CRA** phone number from the official CRA website to confirm that the call was legitimate; and
- **call** the **CRA employee back**.

To **report a scam**, go to antifraudcentre.ca or call 1-888-495-8501.

ACTION ITEM: Follow these instructions if you suspect a call is from a fraudster or scammer. Give us a call if you are uncertain how to respond to a call from CRA, whether or not it sounds legitimate.

The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances and exceptions in a newsletter such as this, a further review should be done by a qualified professional.

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For any questions... give us a call.