

Underwater part II: Additional taxpayer relief from the CRA?

Moodys Tax
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The recent announcement by Ministers Shea and Kenney yesterday in a [press release](#) (the “Press Release”) is much welcomed by Albertans as the Province has been hit by the worst flooding in its recent history. However, the Press Release is ambiguous as to exactly which taxpayers and what filings will qualify for the relief measures announced. See our [blog](#) of June 26, 2013 for detailed information on the taxpayer relief provisions.

The Press Release states that “taxpayers affected by flooding in Alberta will have until August 2, 2013 to file their returns”. The Press Release then states that “the CRA will proactively adjust the due date for all federal business and other returns filed in Alberta that were due during the flooding”. Pursuant to subsection 220(3) of the *Income Tax Act* and section 281 of the *Excise Tax Act*, the Minister may extend the time for filing a return.

At first blush, it appears that the Press Release is automatically extending the deadline for the filing of all business and other returns; however, upon closer review the wording of the press leaves many questions unanswered.

The first question is whether payroll and GST returns are included in the phrase “federal business and other returns”. Many businesses may also have election forms or other information requests that are due during the period in question, not to mention that such taxpayers may be attempting to file a notice of objection. The *Income Tax Act* and the *Excise Tax Act* assess penalties for late filed returns and election forms.

At top of mind for tax preparers, is whether the Press Release applies to the tax and other business returns that are due on June 30, 2013. It is arguable that a filing due on June 30, 2013 is not covered as such filing was not due “during the flooding”; however some portions of the Province still remain in a state of emergency.

Further, how do tax preparers obtain relief for their clients? What if a taxpayer is affected by the Alberta flooding by virtue of the fact that their tax professional has been affected? Arguably such a taxpayer should similarly be entitled to relief. The Institute of Chartered Accountants of Alberta announced to their members that they are in discussions with the CRA in respect of obtaining relief for tax preparers.

The next question is what is meant by the phrase “filed in Alberta”? How will the CRA determine if a taxpayer was (or was not) affected by the flooding in order to be eligible for the proactive adjustment of the taxpayer’s filing deadline(s) to August 2, 2013? There is no CRA Taxation Centre (as opposed to Tax Service Office) in Alberta and Alberta taxpayers are directed to send their tax filings to the Winnipeg Taxation Centre. Will the CRA be using the business address on the return? What if a taxpayer was not affected by the flooding, do they get automatic relief if they have an Alberta address? What if the address on the return (for example a T2 return) is outside of Alberta but the books and records of the taxpayer were in Alberta and were damaged by the flooding?

Perhaps of greater concern to many businesses is whether their remittance obligations will also be subject to the same proactive relief. Is the deadline for these obligations automatically extended until August 2, 2013? The *Income Tax Act* and *Excise Tax Act* may assess penalties for late remittances, but assess interest (accrued daily) to a taxpayer in respect of balances owing. Under the taxpayer relief provisions, found in subsection 220(3.1) of the *Income Tax Act* and section 281.1 of the *Excise Tax Act*, the Minister has the discretionary authority to waive or cancel both penalties and interest, in practice such authority is delegated to the CRA.

Taxpayers should also be cognizant of the fact that the Province of Alberta administers its own corporate taxation system, and as of today has not announced parallel relief in respect of their corporate filing deadlines.