

**BUSTING
THE
MYTHS**



MYTHS SURROUNDING

CRA's Tax Relief Program

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The Truth and Myths Surrounding the CRA's Taxpayer Relief Program

There is quite a lot of information on the Internet surrounding the Canada Revenue Agency's (CRA) Taxpayer Relief Program (formerly known as "fairness commission"). Understandably, there is also a lot of misinformation about this program.

As stated by a former CRA Collector:

"After having spent almost 11 years working in the CRA – beginning as an entry-level collector and working my way up through the division to a team leader before taking my MBA and heading into the private sector – I have learned quite a lot about how the Taxpayer Relief program actually works."

This post will identify the key objectives of the program straight from the CRA, and then highlights some common myths about the program and the actual fact about why it makes sense to invest considerable time and effort into an application, or engage the services of someone who knows the program inside and out.

The Taxpayer Relief program was set up to allow for the Minister of National Revenue to grant relief from penalty and/or interest when the following types of situations prevent a taxpayer (individual or corporation) from meeting their tax obligations:

- extraordinary circumstances;
- actions of the Canada Revenue Agency (CRA);
- inability to pay or financial hardship;
- other circumstances

The program distinguishes between "cancelling" and "waiving" of penalties and/or interest as the CRA understands that granting relief to a taxpayer only to see them smothering in penalties and interest again is an exercise in futility. The term "cancel" refers to a penalty or interest amount

that is assessed or charged for which relief is granted, in whole or in part, by the CRA. The term “waive” refers to a penalty or interest amount that is not yet assessed or charged for which relief is granted, in whole or in part, by the CRA.

The term “Taxpayer” includes individual, employer or payer, corporation, partnership, organization, trust, estate, goods and services tax/harmonized sales tax (GST/HST) registrant or claimant.

Now you or your client has been charged penalties and / or interest and you want to know if you qualify. Look no further than the CRA website, and their section on Taxpayer Relief, [here](#).

Circumstances that *may* warrant relief include;

Extraordinary circumstances

Penalties or interest may be cancelled or waived in whole or in part when they result from circumstances **beyond a taxpayer’s control**. Extraordinary circumstances that may have prevented a taxpayer from making a payment when due, filing a return on time, or otherwise complying with a tax obligation include, but are not limited to, the following examples:

- natural or human-made disasters, such as a flood or fire;
- civil disturbances or disruptions in services, such as a postal strike;
- serious illness or accident; and
- serious emotional or mental distress, such as death in the immediate family.

Actions of the CRA

The CRA may also cancel or waive penalties or interest when they result primarily from CRA actions, including:

- processing delays that result in taxpayers not being informed, within a reasonable time, that an amount was owing;
- errors in CRA material which led a taxpayer to file a return or make a payment based on incorrect information;

- incorrect information provided to a taxpayer by the CRA (usually in writing);
- errors in processing;
- delays in providing information, resulting in taxpayers not being able to meet their tax obligations in a timely manner; and
- undue delays in resolving an objection or an appeal, or in completing an audit.

Inability to pay or financial hardship

The CRA may, in circumstances where there is a confirmed inability to pay amounts owing, consider waiving or cancelling interest in whole or in part to enable taxpayers to pay their account. For example, this could occur when:

- a collection has been suspended because of an inability to pay caused by the loss of employment and the taxpayer is experiencing financial hardship;
- a taxpayer is unable to conclude a payment arrangement because the interest charges represent a significant portion of the payments; or
- payment of the accumulated interest would cause a prolonged inability to provide basic necessities (financial hardship) such as food, medical help, transportation, or shelter; consideration may be given to cancelling all or part of the total accumulated interest.

Consideration would not generally be given to cancelling a penalty based on an inability to pay or financial hardship unless an extraordinary circumstance prevented compliance, or an exceptional situation existed. For example, when a business is experiencing extreme financial difficulty and enforcement of such penalties would jeopardize the continuity of its operations, the jobs of the employees, and the welfare of the community as a whole, consideration may be given to providing relief of the penalties.

Other circumstances

The CRA may also grant relief if a taxpayer's circumstances do not fall within the situations described above.

The CRA expects these guidelines to be used when applying for relief and that the requests are made within the deadlines for requesting relief, which is limited to any period that ended within 10 years before the calendar year in which a request is submitted or an income tax return is filed.

The 10-year limitation period rolls forward every January 1st.

If filed using the correct form, with sufficient supporting documentation, a response from the Taxpayer Relief Program can take anywhere from 3 months to 2 years due to the amount of requests. In order to ensure that you are making the best claim possible, you really should engage the services of a professional, as they would be able to assess whether or not your request is sufficient, and they would ensure that you meet all the other conditions which must be in place for the CRA to review and consider your application.

At the end of the day, if you have a reasonable chance of being successful under this program, the investment made to have it written, reviewed or monitored by an expert is a worthwhile expenditure.

Now let's have a look at some common myths around this program which are floating around the Internet.

Myth: That the CRA's Taxpayer Relief program is a one time program and that you had better take your best shot the time you decide to apply.

Reality: Not true, This program is available to all Canadians who have been charged penalties and / or interest and as such, they have the right to ask for relief each and every time it is warranted. The Taxpayer Relief Group do not maintain collection inventories and as such they review each case on the merit of its submission without any influence from the permanent collections diary or the collector assigned to the case.

Myth: That the CRA's Taxpayer Relief Program is used in order for the CRA and a taxpayer to negotiate a deal which would resolve the taxpayer's debt issue by settling the debt and accepting less than the actual amount owed to them.

Reality: Never, ever, ever! The CRA does NOT settle debts outside of bankruptcy or a proposal, and they certainly do not use the taxpayer relief program for this purpose. As a matter of fact, I can speak of a firsthand experience where a collector used the word “settle” in the permanent collection diary of a corporation which had paid a principle tax debt of \$650,000, because they wanted to fight the \$775,000 in penalties and interest through Taxpayer Relief. The CRA sent back the \$650,000 and re-opened negotiation with the corporation because they did not want to set the precedent of settling tax debts through the Taxpayer Relief Program.

Myth: I cannot afford to pay my taxes, so I am not going to file my tax return, and then when I have a debt, I can ask for relief because I had no money?

Reality: Failure to file a tax return is a criminal offence which can result in prosecution, so you should always file, and be clear to the CRA upfront that money is tight. But before an application is made to the Taxpayer Relief Program, all outstanding returns must be filed up to date, and all instalments must be accounted for. Otherwise, the application is set aside until everything is current.

Myth: Having a disability or illness from birth qualifies me for Taxpayer Relief.

Reality: Probably not. If you have managed to conduct your affairs for a period of time without any tax issues, but then something happens which causes the accumulation of penalties and interest, you cannot use your disability or illness when applying for relief, unless something happened during the period in which the penalties and / or interest were applied as a result of a worsening of your disability / illness. In that case, you would need to substantiate this with supporting letters from your doctors and specialists.

Myth: I met with someone who is going to write a letter to the CRA asking for relief and they have sent me the letter to review. If I sign it, and they send it off, am I now being considered for relief?

Reality: Not any more. Years ago, taxpayers were able to send in letters to the fairness department which contained their reasons for asking for relief and some would include supporting documentation, while others would not. However, since the CRA revamped the

Taxpayer Relief Program, they require that the form RC4288 be included in the package or the claim will be rejected.

Myth: I need to be pre-qualified for the CRA Taxpayer Relief Program.

Reality: No. You can determine if you may qualify, or you can seek a professional to help you determine if you have grounds for relief, but there is no pre-qualification of this program.

Myth: If my claim is rejected, then I have to pay the penalties and interest.

Reality: You should make arrangements to pay the penalties and interest in any case in order to stop the interest clock from ticking should the claim be denied – wherever possible, however, the Taxpayer Relief Program allows for a second-level review to be performed (usually with additional information provided) and there is an option for judicial review should the second level review be unfavorable.

So take some time to look around when you are considering an application under the Taxpayer Relief Program and make sure that if you engage someone you do so for the right reasons