

1 3520 Lecture 1

- Canadian Tax Principles (CTP) – Selected parts of Chapters 1 and 2 (see references below)
- Recommended Problems:
 - Ch. 1: Exercises One-1, 3, 4 and Self-Study Problem One-1
 - Ch. 2: All Exercises and Self-study Problems

2 Introduction to Federal Taxation in Canada [ch. 1]

- Any tax system has a
 - base (what to tax);
 - taxpayer or unit of taxation (who to tax); and
 - rate (how much to tax).

2.1 Alternative Tax Bases [1-1 to 1-6]

- Several different tax bases exist in Canada:
 - For income taxes (i.e., personal and corporate income taxes), the base is income
 - For social security/Payroll taxes (e.g., EI, CPP, EHT), the base is salary and benefits
 - For the HST/GST, the base is the FMV of (most) goods and services
- Canada relies more heavily on personal income taxes and less heavily on social security taxes to raise revenues than do other countries
- See CTP Figure 1-1

2.2 Taxable Entities – Income Taxes [1-7 to 1-10]

- The *Income Tax Act* (the “Act” or “ITA”) uses the term “person” to refer to the three entities that are subject to federal income taxation – individuals, corporations and trusts
- The ITA uses the term “individual” to refer to a human taxpayer
- Individuals (not married couples) file T1s (i.e., personal tax returns) and are taxed at graduated personal tax rates
 - The unit of taxation is the individual and the rate is graduated
 - i.e., the rate is lower at lower income levels and rises as income rises
- Corporations file T2s (i.e., corporate tax returns) and are taxed at flat corporate rates with special reductions for certain private corporations earning business income, etc.
- Trusts file T3s (i.e., trust tax returns). Trusts created on death (testamentary trusts) are taxed at graduated personal rates but trusts created by living taxpayers (inter vivos trusts) are taxed at the highest personal rate (33% federally)
- The base is taxable income (as defined in the Act) for all these taxpayers, although the rates differ
- Certain entities are exempt from income tax including: municipal governments; most Crown corporations; registered charities; most non-profit organizations; and pension trusts and

pension corporations (including RPPs, RRSPs, deferred profit sharing plans and registered retirement income funds)

2.3 Federal Taxation & the Provinces – Personal Income Taxes [1-13 to 1-17]

- Before 2000, only Quebec had different rules for personal taxes and a separate return. The other provinces charged their personal income tax based on a % of federal taxes
- Now the federal government still collects personal income taxes for provinces other than Quebec but the provinces have their own tax rates
- All provinces, except Quebec use the same Taxable Income that is calculated at the Federal level
- Each province is able to set different provincial credits to apply against provincial Tax Payable

2.4 Corporate Provincial Income Taxes [1-18 to 1-19]

- Alberta and Quebec have separate corporate tax returns and collect their own corporate taxes.
 - Ontario has harmonized its corporate income tax with the federal income tax and the federal government (i.e., the CRA) collects and administers Ontario's corporate income tax
- Aside from Alberta and Quebec, provinces use federal taxable income: the computation is done on the federal tax return and the federal government collects the taxes (and remits to the province their applicable share)

2.5 GST, PST and Harmonized Sales Tax (HST)

- See <http://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/menu-eng.html?slnk>
- Any person engaged in commercial activity in Canada must register, collect and remit 5% GST on taxable supplies (HST is discussed below)
- Taxable supplies include most commercial activities (i.e., providing goods or services for profit) other than zero rated supplies and exempt supplies
- Zero rated supplies include: prescription drugs; basic groceries; and goods and services exported from Canada. Zero rated supplies are not subject to GST; however, the supplier can still claim input tax credits (ITCs) for GST paid by the supplier (to provide the zero rated supply)
- Exempt supplies include: health care services; primary, secondary and post-secondary education; financial services; sales of used residential housing; and rentals of residential properties. Exempt supplies are not subject to GST and the supplier cannot claim ITCs for GST paid by the supplier (to provide the exempt supply)
- However, there is an exemption for small suppliers having \$30,000 or less in taxable supplies each year. Small suppliers do not have to collect and remit HST/GST if they don't want to
 - See the guide at <http://www.cra-arc.gc.ca/E/pub/gp/rc4022/README.html>
- In Quebec, Revenue Québec administers the QST which is mostly “harmonized”

- New Brunswick, Nova Scotia, Newfoundland, Ontario and Prince Edward Island are all “participating provinces” that have "harmonized" their PST with the GST. The combined tax is called the HST (H is for "Harmonized") and the CRA administers it. See rc4022 above.
- The combined HST rate in Ontario is 13% (5% GST plus 8% PST).
- The HST uses the same rules and tax base as the GST (i.e., it applies to goods and services). HST/GST registrants are eligible for ITCs for almost all of the HST/GST that they pay
- All the remaining provinces have a PST except for Alberta, which has GST only.
- See also CTP 1-20 to 1-25

2.6 Taxation and Economic Policy [1-26]

- With taxation, the government can
 - raise revenues;
 - redistribute income;
 - encourage certain activities
 - stabilize the economy; and
 - allocate resources among different levels of government.

2.7 Taxation and Income Levels [1-27 to 1-34]

- Progressive taxes: higher-income people pay more
 - Example
 - The graduated federal personal income taxes
- Regressive taxes: lower income individuals pay proportionally more of their income on these taxes
 - Examples:
 - Sales taxes are regressive because lower-income individuals spend a higher % of their income on consumption goods than individuals with higher incomes (and many consumption goods are subject to PST and GST, or HST)
 - Refundable tax credits for low income individuals at the federal and provincial level attempt to offset this regressive tax. Low income individuals receive the quarterly GST credit and (starting July 2012) the monthly Ontario Trillium benefit. The monthly Ontario Trillium benefit combines 3 refundable credits: sales tax, property tax and the northern Ontario credit. Before July 2012, the 3 amounts were paid separately and quarterly.
- Flat taxes: all taxpayers pay tax at the same rate
 - Examples
 - Corporate income taxes
- Tax Incidence: who bears the burden of the tax [1-35 to 1-36]
 - Who pays corporate taxes? The shareholders, the employees or the customers?

2.8 Tax Expenditures [1-37 to 1-40]

- A term coined by Harvard Law School Professor Stanley Surrey to refer to special tax rules that reduce taxes to encourage certain types of social or economic behavior
- Tax expenditures reflect revenues that have been given up by the government through the use of tax preferences, concessions, and other tax breaks.
 - May favour selected individuals or groups (ex. senior citizens), certain kinds of income (ex. capital gains), certain characteristics of some taxpayers (ex. the disabled), etc.
- The alternative to a tax expenditure is a direct expenditure, i.e. a government grant
- Tax expenditures are better than direct government expenditures when it is more efficient to deliver the relief (or grant) through the tax system
- An annual government report provides the cost of tax expenditures; this publication makes the system more transparent [Homework: go to the web site of Department of Finance and find the latest tax expenditure report]

2.9 Qualitative Characteristics of Tax Systems [1-41 to 1-43]

- Horizontal Equity: fairness based on ability to pay; similar levels of taxation for people in similar economic circumstances
- Vertical Equity: taxpayers earning more should pay tax at higher rates – a progressive system
- Neutrality: taxes should interfere with decisions/the allocation of resources as little as possible
- Adequacy: enough taxes should be collected to meet the government's funding requirements
- Elasticity and flexibility: there should be flexibility to cope with economic changes
- Simplicity and ease of compliance: i.e., there should be no significant administrative problems. The Canadian income tax system is one of the most complex in the world
- Certainty: taxpayers should know how much tax they have to pay, the basis for payments, and the due dates
- Balance between Sectors: i.e., balance between different bases (income, payroll, etc)
- International Competitiveness: our taxes must not get too out of line with those of our trading partners/neighbours (e.g. U.S.), or we might see an outflow of both business and skilled individuals to countries with more favourable tax rates. Canada's corporate tax rates are lower than U.S. corporate tax rates.

2.10 History of Income Tax

- The Canadian income tax started as a temporary income tax introduced to finance World War I in 1917
- Capital gains were not taxed in Canada until 1972. The Carter Commission reported in 1967 and recommended taxing capital gains 100% (a "buck is a buck"). The new Act applicable on January 1, 1972 taxed capital gains at 50%
- Almost every year there is a federal budget changing the ITA (usually in February or March)
- Each province also occasionally introduces tax changes in its annual budget. The Ontario budgets are usually in May

- Other technical bills are introduced at other times to fix mistakes and loopholes in the ITA
- The ITA today is still essentially the 1972 Act but much bigger (at least 10 times the size)

2.11 Structure of the Federal Income Tax Act (ITA) [1-44 to 1-60]

- The CD included with the CTP textbook contains a copy of the ITA and related materials
- Most of this course is about Part I of the ITA. But the course will also cover
 - Part I.2: Tax On Old Age Security Benefits
 - Part I is divided into Divisions. Most of this course is about Division B. The divisions are:
 - Division A: "Liability For Tax" (Section 2): residents pay Canadian tax on worldwide income and non-residents only pay Canadian tax on certain Canadian source income
 - Division B: "Computation Of Income" (Section 3 through 108): calculation of income/net income. Division B has 5 major subdivisions describing the major sources of income and deductions:
 - a: employment income in sections 5 to 8
 - e.g. salary, benefits, deductions
 - b: business or property income in sections 9 to 37
 - property income is passive income earned from property, e.g. interest, dividends, royalties paid on an investment, rents, etc.
 - c: taxable capital gains/allowable capital losses in sections 38 to 55
 - d: other sources of income in sections 56 to 59
 - e.g. pensions, RRSP income, spousal & child support received, EI, scholarships, social assistance
 - e: other deductions in sections 60 to 66
 - e.g. RRSP contributions, moving expenses, child care expenses, spousal and child support paid
 - Division C: Taxable income for a resident of Canada (sections 110-114)
 - Division D: Taxable income for a non-resident
 - Division E: Computation of Tax and Tax Credits

2.12 How to refer to the ITA [1-53]

- hypothetical e.g. 118(1)(a)(ii)(B)(I)
 - 118 is the section
 - (1) is the subsection
 - (a) is the paragraph
 - (ii) is the subparagraph
 - (B) is the Clause
 - (I) is the subclause

2.13 Other Tax Sources [1-61 to 1-69; 1-71 to 1-75]

- Changes to the ITA are proposed each year as part of the annual federal budget. Changes to the ITA must be passed by parliament and receive Royal Assent to become law
- The ITA contains regulations (ITRs) that are passed by cabinet (as opposed to Parliament and hence are easier to change). If the Act talks about a prescribed amount or manner, the amount or manner is set out in a regulation
- Canada's tax treaties with other countries override the ITA
- The Canada Revenue Agency (i.e., the CRA) administers the ITA (the Department of Finance writes it and the Department of Justice represents the government in court cases involving tax). The CRA publishes
 - Interpretation Bulletins (IT's) → interpret the ITA and court cases based on what the CRA thinks
 - e.g. IT-63R5 deals with an employee's personal use of an automobile supplied by an employer and IT-470R deals with an employee's fringe benefits. The CD accompanying the CTP textbook contains the Interpretation Bulletins
 - CRA stopped issuing new IT's in 2003, but continued making revisions until 2013. IT's are becoming replaced by Income Tax Folios
 - Income Tax Folios → updated information currently found in the Interpretation Bulletins
 - Organized into 7 Series and each Series is divided into Folios with Chapters on specific topics
 - Information Circulars- mostly set out procedures; however one important one deals with GAAR, the general anti-avoidance rule
 - Technical Interpretations when taxpayers write in for the CRA's advice; these are published with names removed
 - Pamphlets and Guide Books – e.g. Deceased Taxpayers
- The CRA website at <http://www.cra.gc.ca> has most of these publications in electronic form
- Court cases are also a source as they must interpret the ITA if it is not clear (and if a dispute ends up in court). The lower court is the Tax Court of Canada, the mid-level court is the Federal Court of Appeal and the high court is the Supreme Court of Canada

3 Procedures and Administration [Ch. 2]

3.1 Tax withheld at source on salaries and wages [2-20 to 2-24]

- Tax is withheld by employers and remitted to the government (ITA 153) based on an employee's income that takes into consideration certain personal tax credits
- Most employees just claim the basic personal tax credit and the much smaller Canada employment amount
- If an employee has other large deductions (e.g. RRSPs, spousal support), he or she can make a request to the CRA to have his/her source deductions reduced. This is not very common. Most individuals wait for a tax refund when they file their return
- See example at 2-23

3.2 Other Withholdings [2-25 to 2-26]

- Tax is also withheld and remitted to the government from payments of other amounts
 - Examples
 - If you withdraw from your RRSP at a bank, the bank withholds tax and you get the rest. Any difference between the tax withheld and the balance owing will be payable when you file your tax return (on April 30th of the next year). If you've paid too much you will receive a refund
 - If you have an employee (e.g. an employee in a business or a live-in nanny) you must withhold and remit tax, EI, CPP on salary payments
 - If you make payments to a non-resident (e.g. rent or interest), you must withhold and remit tax

3.3 Employer's Remittance of Source Deductions and filing of T4s

- These withholdings must actually be received by the CRA by the due date in order to avoid a penalty
 - Postmarks only count for personal tax returns
 - Interest is also charged on late payments
- Employers with large payrolls must remit more often than those with smaller payrolls
- T4s (which summarize employment income and CPP, EI, and income tax withholdings for the calendar year) must be filed at the end of each February

3.4 Individuals – T1 Returns [2-8 to 2-16]

3.4.1 Requirement to File (T1)

- ITA 150 requires all individuals to file a T1
- ITA 150(1.1)(b) exempts some
- Individuals must file a T1 tax return for a year if they
 - owe tax;
 - have a taxable capital gain or have disposed of a capital property;
 - have received a demand to file a return (e.g. a notice from the government);
 - and their spouse or common-law partner have elected to split pension income; or
 - have to contribute to the Canada Pension Plan or pay Employment Insurance premiums
- Most individuals who are not required to file probably have a refund and hence should file
- Spouses wanting to split pension income must file tax returns in order to do so
- Also beneficial for low income taxpayers to file in order to be eligible for income-based benefits such as the Universal Child Care Benefit, the GST credit, and the Guaranteed Income Supplement → cannot receive these benefits without filing a tax return
- You can paper file (using a return prepared manually or using computer software), EFILE, OR NETFILE

- Taxation Year
 - An individual's taxation year is the calendar year
- Deadline for T1 returns
 - T1 returns are due on April 30 after the taxation year
 - T1 returns are due June 15 if the taxpayer or his/her spouse is self-employed
 - if a taxpayer owes tax, the amount is due on April 30th even if he/she is a June 15th filer [see 2-55]

3.4.2 Deadline and balance due date for a return for a deceased taxpayer [2-17 to 2-19 and 2-56]

- Extended to six months after the date of death, if this is later than the normal deadline
- If an individual who normally files on April 30th dies on November 30th, the terminal (i.e., final) tax return would have a May 31 deadline for the return and the balance due
- See examples at 2-18, 2-19, and 2-56

3.4.3 Quarterly Instalments for Individuals [2-27 to 2-32]

- ITA 156.1(2)(b) and ITA 156.1(1)
 - Instalments must be made if tax payable minus amounts withheld at source is > \$3,000 in the current year and either of the two preceding years. See <http://www.cra-arc.gc.ca/tx/bsnss/tpcs/crprtns/pymnts/nstlmnts/ntrqrd-eng.html>
- Since many Canadians earn virtually all of their income from employment (where tax is withheld at source), most Canadians do not have to make instalments
- Due 4 times a year: March 15, June 15, September 15, and December 15 of the current year

3.4.4 3 ways of computing instalments [2-33 to 2-42]

- Taxpayers can choose the lowest amount. For the 2016 taxation year choose one of:
 - **Current year method:** 25% of estimated net tax liability for current year 2016: Need an accurate estimate at the beginning of the year. The net tax liability is the taxes owing for the year less any source deductions remitted
 - **Preceding year method:** 25% of net tax liability for prior year: so use the 2015 net tax liability
 - **Second and first preceding year method:** Instalment notice method
 - March 15 and June 15 instalments based on the net tax liability for the second preceding taxation year: For 2016, March 15 & June 15 payments each: 25% of 2014 net tax liability
 - Sept. 15 and Dec. 15. instalments based on the net tax liability for the prior year 2015 but with a catch up adjustment so that the total amount of the 4 instalments equals the prior year instalment base: For 2016, September & December payments equals: (2015 net tax liability minus first 2 payments already made) x 50%
 - Method 3 is often called the Instalment Notice method because the CRA sends you a quarterly notice which is based on this method

- If the prior year's return is not assessed before the September notice is prepared, the catch up adjustment will be reflected in Dec. instalment notice
- Also, people who theoretically pay instalments for the first time sometimes do not get notices in the first year (see below)

3.4.5 Why pay instalments and the balance due on time? [2-43 to 2-54]

- The CRA uses method 3 and if you don't get an instalment notice from the CRA, you don't have to pay any instalments at all
- Interest is charged on deficient or late instalments and if the balance due is not received on time
 - Interest is at the prescribed rate [ITR 4301] based on T-Bill rate during the first month of the preceding quarter plus 4 percentage points. See 2-46 to 2-49
- Late filing Penalties. See 2-50 to 2-54
 - ITA 162(1) sets out the penalty which applies if you miss the deadline for filing your return (e.g. April 30th)
 - 5% of the balance due plus 1% per each complete month late for a maximum period of 12 months
 - ITA 162(2) doubles the penalty if the taxpayer late filed in one of the 3 preceding years
 - 10% plus 2% per each complete month late for a maximum of 20 months

4 Corporations – T2 Returns

4.1 Due Date For T2 Corporate Returns [2-60 to 2-62]

- A corporation's taxation year is its fiscal period
- Corporations can choose an off-calendar year end (i.e., fiscal period). However, the year end cannot exceed 53 weeks [ITA 249.1(1)(a)]. Once a year end is chosen, a corporation can only change it with the permission of the taxation authorities [ITA 249.1(7)]
- Filing deadline: the corporate tax return is due six months after its fiscal year end
- Corporations with gross revenue of more than \$1 million must file their tax returns electronically (i.e., they can no longer paper file their tax returns)

4.2 Instalments for Corporations [2-67 to 2-72]

- Are required unless its tax liability for the current taxation year or the preceding taxation year is < \$3,000
- Due at the end of each calendar month
- ITA 157(1)(a) says to use the least of 3 amounts for monthly 2016 instalments:
 - Current year method: 1/12 of the estimated tax for the current year
 - Preceding year method: 1/12 of tax payable in the prior year
 - Second and first preceding year method: 1/12 of the payable in the second preceding year for first 2 payments, plus 10 payments: 1/10 x (preceding year taxes minus first 2 payments already made)

- See monthly instalment example at 2-69
- Eligible Canadian controlled private corporations (CCPCs), can pay quarterly tax instalments rather than monthly instalments. An eligible corporation is a CCPC that has paid all required taxes and instalments owing (over the past 12 months); has claimed the small business deduction in the current (or prior) taxation year; and that (together with associated companies) had taxable income of \$500,000 or less (in the current and prior taxation year) and taxable capital employed in Canada of \$10,000,000 or less (in the current and prior taxation year)

4.3 Due Date for Balance Owing [2-73 to 2-74]

- Generally 2 months after year end even though the tax return is due 6 months after the year end
- 3 months for CCPCs that claim the small business deduction in the current or prior taxation year and that have (together with any associated companies) taxable income in the prior year of \$500,000 or less

4.4 Interest at the Prescribed Rate (Why pay on time?) [2-75 to 2-78]

- Same rules as for individuals: interest is charged at the prescribed rate plus 4% on late or deficient instalments; and the s.162 penalties for late filed tax returns apply (discussed above)
- Interest paid to corporations on overpayments is the prescribed rate (not the higher rate applicable to individuals and trusts)

4.5 Canadian Currency

- Canadian tax information must be reported in Canadian dollars [subsection 261(2)]. Foreign currency sales and expenses that occur evenly throughout a period must be translated into Canadian dollars using the average exchange rate for the period. The period can be yearly (i.e., the yearly average exchange rate can be used) if the sales or expenses occur evenly throughout the year. Foreign currency asset purchases and dispositions must be translated into Canadian dollars using the exchange rate on the day of purchase/disposition
- Functional currency tax reporting (section 261) which is an elective provision of the Act applicable to certain corporations with foreign operations will not be discussed since it is beyond the scope of the course

5 Trusts [2-79 to 2-86]

- T3 returns are due 90 days after the end of the taxation year
- A trust must file a trust income tax return (T3) if it:
 - has tax payable for the year;
 - is requested by the CRA to file a tax return;
 - has disposed of capital property during the year; or
 - has a taxable capital gain during the year

- Prior to 2016, Testamentary trusts could choose any fiscal year end (often the anniversary of death) and did not need to make instalments. They are taxed at the personal graduated rates
 - Now Testamentary trusts (except graduated rate estates) have to use the calendar year as a fiscal year and are no longer be exempt from instalments
- Inter vivos trusts must have a calendar year for their taxation year and must pay instalments. They must pay tax at the top personal rate (i.e., they don't get graduated tax rates)
- Instalment calculations are determined in the same manner as they are calculated for individuals
 - Any balance owing when the return is filed must be remitted with the return
- Interest on late instalments or late final balance payments is calculated using the same rules as those applicable to individuals. Late filing penalties are also the same as those for individuals
 - The administrative practice of the CRA is to not assess interest or penalties on late instalments.

Information Returns [2-87]

- These information returns are set by the CRA [ITA 221(1)(d)]
- Examples are
 - T3 slips that report beneficiaries' income from a trust
 - T4 slips that report employment income for employees
 - T5 slips that report interest and dividend income
 - T4RSP slips that report payments out of RRSPs.
- Purpose: to provide information slips for taxpayers and the CRA to determine income

6 Foreign Reporting Requirements

- If the taxpayer holds income earning foreign property with cost > \$100,000 at any time in the year the taxpayer must file a Form T1135
 - See <http://www.cra-arc.gc.ca/tx/nnrstdnts/cmmn/frgn/1135-eng.html>
- The types of foreign property that are income-earning property include:
 - Money
 - Shares
 - If the taxpayer owns U.S. company shares but the shares are physically in Toronto (i.e., the share certificates are held in Toronto), you still must report them
 - Bonds
 - Real estate (personal use property such as a vacation home is not reported)
 - Mutual funds
 - Partnership interest
 - Patents and copyrights
- Other foreign reporting forms may also be required if the taxpayer owns shares in a foreign affiliate or is a beneficiary (or settlor) of a non-resident trust (**note**: this is beyond the scope of the course)

6.1 Refunds [2-94 to 2-99]

- Any refund will be reduced by amounts owed from prior tax years (if any)
- No refund will be made if the return is filed more than 3 years after the end of the relevant taxation year
- Refund interest is 2 percentage points above the prescribed rate (for individuals and trusts) and prescribed rate for corporations
- For individuals, interest owing by the government on a tax refund starts accruing 30 days after the later of: the balance due date ; or the day the tax return was filed
- For corporations, interest owing by the government on a tax refund starts accruing at the later of: 120 days after year end; and 30 days after the tax return was filed

6.2 Books and Records [2-88 to 2-89]

- In a self-assessment system, the onus of proof is on the taxpayer
- The rules on retaining books and records are in ITA 230 and ITR 5800
- The general rule is six years from the end of the taxation year. The taxpayer can request permission to destroy records
- Typical books and records that must be maintained by corporations include: minutes of meetings of directors; minutes of meetings of shareholders; the share registry; the general ledger; and inventory records

7 Assessments

7.1 Initial Assessment [2-91]

- With "all due dispatch" the taxpayer's tax return will be assessed (i.e., subject to a brief review) by the CRA [ITA 152(1)]; usually takes several weeks to several months

7.2 Reassessments [2-92 to 2-93]

- When the return is assessed a second, third, fourth etc. time
- The reassessment period is 3 years for individuals and Canadian controlled private corporations, and 4 years for other corporations [ITA 152(3.1)]
- The minister cannot reassess beyond 3 years after the reassessment period (i.e., 6 years for individuals and CCPCs and 7 years for other corporations) unless there is fraud [ITA 152(4)]

8 Disputes and Changes to Returns

8.1 Adjustments to Personal Income Tax Returns [2-100 to 2-103]

- If the taxpayer wants to make changes to a personal tax return, the taxpayer does not re-file the return; instead, the taxpayer just writes a letter or fills out a T1-ADJ (the T1 adjustment request form)

8.2 Notice of Objection [2-109 to 2-118]

- When an informal letter or phone call to the CRA does not work, the taxpayer should file a Notice of Objection [ITA 165(1)].
 - The taxpayer does not have to use a form for this (although there is a form called Form T400A: Objection – Income Tax Act); it can just be a letter sent to the Chief of Appeals
- For individuals & testamentary trusts, the deadline is the later of
 - 90 days from the date on the notice of assessment or reassessment that you are objecting to and
 - one year from the filing deadline for the return under assessment or reassessment
- For corporations and inter vivos trusts, the deadline is 90 days from the date on the notice of assessment or reassessment that you are objecting to
- See example at 2-110

8.2.1 Courts [2-119 to 2-128]

- Tax Court of Canada (TCC)
 - If the Notice of Objection is not successful, the taxpayer can appeal to the Tax Court of Canada (TCC), which is the lowest court
 - The taxpayer can use the informal procedure if the amounts in dispute are low. The advantage is that the taxpayer can represent himself/herself or be represented by a non-lawyer
 - The disadvantage is that there is no right to appeal to a higher court
 - Informal decisions do not establish a precedent for future cases
- Federal Court of Appeal
 - If either the taxpayer or the Minister (the CRA) loses in the TCC, they can appeal to the Federal Court of Appeal within 30 days of the date on which the TCC makes its decision
- Supreme Court of Canada
 - If either the taxpayer or the Minister (the CRA) loses in the Federal Court of Appeal, they can appeal to the Supreme Court of Canada
 - The Supreme Court can decide which cases to hear and only hears cases that are very important, about 2 or 3 tax cases at most per year
- See <http://www.cra-arc.gc.ca/E/pub/tg/p148/p148-e.html>

9 Tax Evasion, Avoidance and Planning [2-129 to 2-138]

- Tax evasion is illegal
 - Evasion is the deliberate attempts to deceive the CRA
 - e.g., unreported income, fictitious deductions
- Tax avoidance and Planning
 - Taxpayer's Success in the Stubart case lead to ITA 245 (the General anti-avoidance rule or GAAR)
 - Tax avoidance is to use the rules in the ITA to avoid paying taxes. Sometimes it is allowed (this is called tax planning) sometimes it is not, because avoidance rules in the ITA stop you (this is called tax avoidance)
 - GAAR applies to deny the tax benefit in avoidance transactions where the transaction results in a misuse or abuse of the ITA, its regulations or a tax treaty with another country

9.1 Taxpayer Relief Provisions [2-151 to 2-154]

- Taxpayer relief provisions (Fairness Package) is described in the following Information Circular: IC 07-01 describe the rules: IC 92-1, IC 92-2, and IC 92-3.
 - Part I: description of legislation and limits claims to 10 year from the end of the calendar year in which the tax issue occurred
 - Part II: Guidelines for the Cancellation or Waiver of Penalties and Interest
 - This is the most common
 - Penalties/interest may be waived if:
 - Extraordinary circumstance (ex. Natural disaster, serious illness)
 - Actions of the CRA (ex. Processing delays)
 - Inability to pay or financial hardship (ex. Inability to provide basic necessities for family)
 - Part III: Guidelines for accepting late, amended, or revoked elections
 - Part IV: Guidelines for refunds or reduction in amounts payable beyond the normal three year period
 - Only for individuals and testamentary trusts
 - Part V: Rules and procedures when relief is granted or denied
- See <http://www.cra-arc.gc.ca/E/pub/tp/ic07-1/README.html>

10 Third Party “Civil” Penalties [2-145 to 2-149]

- Tax advisors can face large penalties if they are involved with false or misleading tax information (submitted by a taxpayer to the taxation authorities). These so called third party “civil” penalties are in addition to any penalties that the taxpayer may face. Accordingly, tax advisors must use their professional judgment to ensure that they do not assist a client to submit false or misleading information to the taxation authorities [since this may: 1) violate their professional code of conduct (if they are a professional accountant) and 2) expose them to third party “civil” penalties]

- However, tax advisors do not have to audit their client's tax information and accordingly they can rely "in good faith" on information provided by their clients as long as there is no reason for the tax advisor to suspect that the information is false or misleading. Additional penalties can apply to promoters of tax shelters and these additional penalties will not be discussed in this course

****Becoming an Accountant – Learning the Necessary Skills****

- The qualification process to becoming a professional accountant in Canada is not simply based on core knowledge. There are several other required competencies that need to be demonstrated before an accounting designation can be obtained. These competencies are tested through the various examinations required in order to become a designated accountant. This lecture deals with many of the administrative issues relating to personal and corporate taxation. It ties directly into the competency map which requires candidates to analyze an entity's tax profile and identify and advise on compliance and filing requirements. All course content can be tied back to one or many of the competencies that need to be demonstrated in order to successfully become a designated accountant.