



The HST Blog

Posted at 2:10 PM on November 17, 2015 by Cyndee Todgham Cherniak

How to Appeal a GST/HST Assessment Correctly



If you are in the unfortunate position of having received a Notice of Confirmation of a Reassessment of GST/HST pursuant to the *Excise Tax Act* (Canada) and would like to continue to fight the reassessment, you **MUST** file an appeal within the 90 days statutory deadline (See Section 306 of the ETA). While there is a possibility of obtaining an extension of time from the Tax Court of Canada for filing a Notice of Appeal, it is not a guaranteed right. As a result, when you obtain the Notice of Confirmation, **GET OUT YOUR CALENDAR**. Mark on your calendar what date is 90 days from the date on the Notice of Confirmation. Then, mark on your calendar one month before that date. Then, mark on your calendar one month before that date. You should have three dates marked on your calendar. Use a [date calculator](#) because some months have 31 days.

Let's say your Notice of Confirmation is dated July 1, 2015. This means that your deadline for filing the Notice of Appeal with the Tax Court of Canada is September 29, 2015. You would mark on your calendar August 29, 2015 and July 29, 2015. I like to file the Notice of Appeal a few days early in case anything goes wrong (So, set a deadline of September 25, 2015 for filing the Notice of Appeal).

What are the other dates for? The first date (July 29 in the example) is the deadline for deciding whether you want a lawyer to assist you with your Notice of Appeal. It is also the date for gathering documents - you must start by this date.

The second date (August 29 in the example) is the date for having all your documents organized and the outline of the position you would like to take in your appeal. You must start drafting your reasons for the appeal at this time.

The reasons for the appeal are important. You must provide the reasons for the appeal in the Notice of Appeal. A Notice of Appeal must set out:

- 1) Statement of relevant facts in support of the appeal;
- 2) The issues to be decided by the Tax Court of Canada;
- 3) the relevant provisions of the *Excise Tax Act*;
- 4) Submissions (reasons) in support of the appeal; and
- 5) Statement of the relief sought from the Tax Court of Canada.

You should also determine if you would like the case to proceed under the informal procedure rules or the general procedure rules. If the amount at issue is over \$50,000 or you wish to claim more than \$50,000, the general procedure rules would apply in a GST/HST case.

When you file the Notice of Appeal with the Tax Court of Canada, remember to call ahead to the Tax Court of Canada Registry office to find out the filing fee and the number of copies required. Bring one extra copy so that you can have the Registrar stamp a copy for your records as having been received on time. The Tax Court of Canada serves the Crown.

If you ave any questions, please contact Cyndee Todgham Cherniak at 416-307-4168.

Comments (0) Read through and enter the discussion with the form at the end

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