

Frequently Asked Questions and Answers: Tax Appeal

We understand that a number of you have questions regarding the T1013 Authorization form or have received letters from the Canada Revenue Agency (CRA) regarding your Notice of Objection to appeal the taxes paid on the Health and Welfare Trust payments you received in 2014. This FAQ has been prepared to answer some of your questions and to provide an update on the status of the Test Case Appeals.

1. I would like to know the status of the Test Case Appeals.

The Test Case Appeals were heard by the Tax Court of Canada on Thursday, August 25, 2016 and October 5, 2016 before the Honourable Mr. Justice Sommerfeldt of the Tax Court of Canada. The oral submissions are now complete. However, Mr. Justice Sommerfeldt granted the Crown the opportunity to make a written submission to address a question that his Honour raised on the first hearing date. The submissions process should conclude by November 24, 2016, after which the judge will deliberate and provide written reasons. His Honour advised that he expects that it will be a matter of months to review the documents, reach a decision, and release written reasons, given the complexity of the case.

2. I received a T1013 Authorizing a Representative Form from Koskie Minsky and am concerned about providing Level 2 authorization for an unlimited period of time.

We understand that many of you have concerns regarding the level of authorization that Level 2 provides a representative. However, Level 2 is the only authorization level that allows a representative to file an appeal on your behalf, which may be necessary to complete your tax appeal.

By completing the T1013 form you authorize Koskie Minsky LLP to represent you with respect to this matter and to agree on your behalf to be bound by one or more of the Test Case Appeals. Authorizing Koskie Minsky to take these steps on your behalf is intended to facilitate the most efficient and cost-effective way possible to advance the group appeals, and is in accordance with the direction of the case management judge assigned to these appeals.

*The CRA is aware that this authorization is only with respect to this tax appeal. However, if you are concerned and would like to limit the authorization to Koskie Minsky as your representative, you may fill out Part 3 of the form with an expiration date of January 1, 2019. Extending the authorization to this date will provide Koskie Minsky with authorization to represent you in the test case appeals, which has been scheduled to continue for a second day of hearing on October 5, 2016, and if necessary, any appeal from the Tax Court of Canada decision. You may always revoke your authorization at any time. Please note, however, that it will be **your responsibility** to complete another T1013 Authorization and to submit a copy to Koskie Minsky and the CRA should the tax appeals continue beyond the dates you have authorized.*

For more information about the levels of authorization please see the following explanation from the CRA: http://www.cra-arc.gc.ca/tx/ndvdl/tpcs/chng_rps/lvl-eng.html.

3. I received a letter from the CRA and it states that I "did not report income from the Nortel Health and Welfare Trust on (my) 2014 income tax return."

Please check your tax filing from 2014. If you did **not** receive a T4A slip from the Monitor and/or you did **not** report the amount you received from your 2014 HWT distribution as taxable income in your tax return, you cannot file an objection and therefore, you are not covered by the Test Case Appeals.

If you would like to change your return retroactively to include it, you may do so by following the steps provided on the CRA's website at the following link: <http://www.cra-arc.gc.ca/changereturn/>, but you should consult with your own tax advisor before doing so.

The CRA may take enforcement action if you received a T4A tax slip from the Monitor and did not report the amount in your taxable income for 2014, even though the issue is under appeal. If we are successful in the appeal, any tax paid will be refunded with interest at a prescribed rate.

Please note that you may have amounts owing as a result of any change to your return and it may affect benefits and credits you are currently entitled to that are based on income. You should review your own personal circumstances with a tax advisor.

If you file a changed return, you will receive a Notice of Reassessment and will be able to object at this time. Please contact us for another copy of an objection package if you proceed with changing your tax return and would like to object once you receive your Notice of Reassessment. Please note that depending on when you filed your 2014 tax return, you will have 90 days to file an objection to your Reassessment. For further information please see the CRA's website for information regarding objections at the following link: <http://www.cra-arc.gc.ca/E/pub/tg/p148/p148-e.html>.

4. **I received a letter from the CRA and it states that I "filed the objection before the notice of assessment was issued, (and) the Appeals Division cannot accept (my) objection."**

Please ensure that you have filed your income tax return for 2014, which is required for the CRA to issue an "assessment." You can only object once an assessment is issued. If you choose not to file income taxes for whatever reason, including because you are a foreign resident, you will not be covered by this appeal. Contact us once you have received your Notice of Assessment and we will provide you with another objection package to complete. As stated in the letter from the CRA, you cannot object until you have received your Notice of Assessment for your 2014 tax year.

5. **I have not yet filed my objection to the Notice of Assessment or the authorization to Koskie Minsky and am concerned that I am too late.**

Please note that in order to be covered by our agreement with the CRA, the objection to your Notice of Assessment and T1013 Authorization Form must be filed prior to the date the judgement in the Test Case Appeals is released.

If your objection is filed but you have not authorized Koskie Minsky by that date, the CRA will not be bound to apply a favourable result to your case.

If you have not filed your objection, please note the deadlines for filing an objection which are provided on the CRA's website at the following link: <http://www.cra-arc.gc.ca/gncy/cmplntdspts/ncmtx-eng.html>. You may be able to request an extension of the deadline to file your objection, but Koskie Minsky cannot assist with this.

6. **I received a letter and it states that I filed an objection for an Assessment that was subsequently Reassessed and "this reassessment/redetermination nullifies the assessment/determination and the objection filed."**

Please contact us and we will send you another objection package. You must object to the latest Reassessment as your earlier Assessment was subsequently changed either by you or the CRA and an objection is only valid for the latest version.

7. **I received a letter that says that if I have "not paid the amount in dispute, interest continues to accumulate on the unpaid balance."**

For the most part, these letters are standard form letters confirming receipt of your objection and reminding you that if you did not pay the taxes on your 2014 payments, and you received a Notice of Assessment stating that you owe taxes for these payments in 2014, you should pay these amounts promptly as interest may be accruing. We expect that the vast majority of you did pay the tax on the 2014 payments, for which you should have received a tax slip (a T4 or T4A). If you did pay your taxes, you do not need to take any action. You can keep the letter in your records as confirmation that your Notice of Objection was filed on time.

If you have received a letter that states otherwise and you have questions about it, please contact us at nortel@kmlaw.ca or call us at 1-866-777-6344.