

Income Tax

IMP. 1010-1/R2 Waiver to the Three-Year, Four-Year, Six-Year or Seven-Year Prescription
Date of publication: June 30, 1998

Reference(s): *Taxation Act* (R.S.Q., c. I-3), sections 1010, 1010.1, 1011, 1060 and 1066.1

This bulletin cancels and replaces bulletin IMP. 1010-1/R1 of April 29, 1987.

1. The Minister may **at any time** again assess tax, interest, and penalties even after expiry of the three-year, four-year, six-year and seven-year time limits provided for in paragraphs *a*, *a.0.1* and *a.1* of subsection 2 of section 1010 of the *Taxation Act* (the “Act”), if he obtains the concerned taxpayer’s consent by means of a waiver in prescribed form.
2. It is the Minister who is responsible for initiating the administrative procedure aimed at obtaining a waiver. The current version of bulletin IMP. 1010-2 describes the situations in which the Minister will consider exercising this discretionary power.
3. This waiver is only valid for the elements identified on the prescribed form. Section 1011 of the Act prevents the inclusion, in computing a taxpayer’s income, of an amount that cannot reasonably be regarded as having been the subject of a waiver and in respect of which the failure to include it in computing the income does not result from misrepresentation of the facts attributable to negligence or wilful default or from fraud, on the part of the taxpayer, in filing his return or in supplying information.
4. For example, therefore, the Minister could not proceed with a redetermination on the basis of a waiver that was signed in blank. The elements of the assessment which the Minister intends to amend must already be recorded on the waiver form when the taxpayer signs it. If not, the taxpayer may object to the issued assessment by following the normal objections procedure, because then, the assessment will be deemed to have been issued under subparagraph *i* of paragraph *b* of subsection 2 of section 1010 of the Act.
5. When a modification in a taxpayer’s income in accordance with a notice of waiver sent to the Minister **leads to** an amendment in respect of a tax credit, whether it be refundable or not, the Minister may proceed with a redetermination of these amounts, whether or not this is specified on the notice of waiver, since this is an amount that can reasonably be regarded as having been the subject of the waiver.

6. Furthermore, under section 1010.1 of the Act, the Minister who acts **only** upon the filing of a waiver referred to in this bulletin, cannot redetermine the tax, interest and penalties of a taxpayer more than six months after the taxpayer has filed, in prescribed form, a notice of revocation of that waiver. Consequently, no entry on the notice of waiver can impose a time limitation on the validity of the waiver of prescription. Should such a situation present itself, the taxpayer will be informed in writing that such an entry is not accepted by the Minister.

7. Lastly, a taxpayer to whom an assessment was issued in accordance with a waiver referred to in this bulletin cannot object to, or bring an appeal against, this assessment, unless the waiver was filed within the same time period as that provided for in paragraph a, a.0.1 or a.1 of subsection 2 of section 1010 of the Act, as the case may be, to reassess the taxpayer.