

## Income Tax

IMP. 1052-2/R1

Interest on an Overpayment of Income Tax, Interest or Penalty Where  
Sections 1053 to 1055 of the *Taxation Act* Do Not Apply

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Reference(s):

*Taxation Act* (CQLR, c. I-3), section 1052

*This version of interpretation bulletin IMP. 1052-2 replaces that of March 29, 1996. It was updated to include legislative amendments since that date. Stylistic changes and changes to ensure consistency were also made.*

### APPLICATION OF THE TAXATION ACT

#### GENERAL CONSIDERATIONS

1. This bulletin explains how to determine the start date of the period for calculating interest, in accordance with section 1052 of the *Taxation Act* (TA), on an overpayment of tax, interest or penalty where such an amount results from a reassessment made under subsection 2 of section 1010 of the TA or under section 1010.0.2 or 1010.0.3 of the TA and gives rise to the refund provided for in section 1051 of the TA or the allocation provided for in section 31 of the *Tax Administration Act*.
2. First, in order to determine the dates referred to in paragraphs *a* and *b* of section 1052 of the TA, an overpayment resulting from a reassessment must be analyzed so as to distinguish, where such is the case, between the part of the amount paid further to a former notice of assessment and the part paid otherwise than further to such assessment.
3. Next, in order to determine the dates referred to in paragraphs *c* and *d* of section 1052 of the TA, the deadline for filing a fiscal return mentioned in subsection 2 of section 1000 of the TA as well as the actual date of filing such a return must be determined.
4. Lastly, a verification is needed to establish whether the Minister determined the overpayment as a result of information sent by the Government of Canada or of a province other than Québec.
5. The rules set forth in the above articles apply equally and in the same manner when a taxpayer's tax is determined to be nil and, owing to that fact, the taxpayer is not required to file a fiscal return under subsection 1 of section 1000 of the TA.

## EXAMPLES

### 6. EXAMPLE NO. 1

During 20X1, Mr. X paid tax in the amount of \$5,500, by way of source deductions or quarterly instalments. On April 27, 20X2, he filed his fiscal return as referred to in section 1000 of the TA for taxation year 20X1. The return was filed together with a cheque for \$500, which Revenu Québec cashed on April 28, 20X2. Under section 1005 of the TA, Revenu Québec determines the tax payable to be \$7,000. On June 9, 20X2, Revenu Québec, acting under section 1008 of the TA, sends Mr. X a notice of assessment containing the following information:

- tax payable	\$7,000
- tax deducted at source or paid by quarterly instalments	\$5,500
- payment on filing (POF) (28-04-20X2)	\$500
- unpaid balance	\$1,000

Mr. X pays the balance of \$1,000 by cheque. Revenu Québec cashes the cheque on June 20, 20X2.

On September 10, 20X2, Mr. X informs Revenu Québec that its notice of assessment is incorrect, since his tax payable should have been determined to be \$6,000, as shown on his fiscal return, not \$7,000. On November 20, 20X2, after an audit, Revenu Québec sends Mr. X a notice of reassessment containing the following information:

- tax payable	\$6,000
- tax deducted at source or paid by quarterly instalments	\$5,500
- tax paid on 28-04-20X2 (POF)	\$500
- tax paid on 20-06-20X2 following the notice of assessment	\$1,000
- overpayment	\$1,000

### Determination of the Start Date of the Period for Calculating the Interest on the \$1,000 Overpayment

- s. 1052, par. a: the day on which the amount of \$1,000 was paid following a notice of assessment: **June 20, 20X2;**
- s. 1052, par. b: unapplicable, since this amount was paid following a notice of assessment;
- s. 1052, par. c: the 46th day following the balance due date (the 46th day following 30-04-20X2): **June 15, 20X2;**
- s. 1052, par. d: the 46th day following the day on which the fiscal return was filed (the 46th day following 27-04-20X2): **June 12, 20X2;**
- s. 1052, par. e: unapplicable, since no application to amend the fiscal return was filed;
- s. 1052, par. f: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the later of these dates is **June 20, 20X2**, interest on the overpayment of \$1,000 must be calculated from that date.

## 7. EXAMPLE NO. 2

During 20X1, Mr. Y paid tax in the amount of \$5,500, by way of source deductions or quarterly instalments. On April 27, 20X2, he filed his fiscal return as referred to in section 1000 of the TA for taxation year 20X1. Under section 1005 of the TA, Revenu Québec determines the tax payable to be \$6,000. On June 9, 20X2, acting under section 1008 of the TA, Revenu Québec sends Mr. Y a notice of assessment containing the following information:

- tax payable	\$6,000
- tax deducted at source or paid by quarterly instalments	\$5,500
- unpaid balance	\$500

Mr. Y pays the balance of \$500 by way of cheque; a first cheque on June 10, 20X2, for \$200, and a second cheque on August 16, 20X2, for \$300. Revenu Québec cashes the cheques on June 12, 20X2, and August 20, 20X2, respectively.

On September 20, 20X2, Mr. Y informs Revenu Québec that its notice of assessment is incorrect, since his tax payable should have been determined to be \$5,500, as shown on his fiscal return, not \$6,000. On November 20, 20X2, after an audit, Revenu Québec sends Mr. Y a notice of reassessment containing the following information:

- tax payable	\$5,100
- tax deducted at source or paid by quarterly instalments	\$5,500
- tax paid on 12-06-20X2	\$200
- tax paid on 20-08-20X2	\$300
- overpayment	\$900

### Determination of the Start Date of the Period for Calculating the Interest on the \$200 Overpayment

- s. 1052, par. a: the day on which the amount of \$200 was paid following a notice of assessment: **June 12, 20X2;**
- s. 1052, par. b: unapplicable, since this amount was paid following a notice of assessment;
- s. 1052, par. c: the 46th day following the balance due date (the 46th day following 30-04-20X2): **June 15, 20X2;**
- s. 1052, par. d: the 46th day following the day on which the fiscal return was filed (the 46th day following 27-04-20X2): **June 12, 20X2;**
- s. 1052, par. e: unapplicable, since no application to amend the fiscal return was filed;
- s. 1052, par. f: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the later of these dates is **June 15, 20X2**, interest on the overpayment of \$200 must be calculated from that date.

### **Determination of the Start Date of the Period for Calculating the Interest on the \$300 Overpayment**

- s. 1052, par. a: the day on which the amount of \$300 was paid following a notice of assessment: **August 20, 20X2**;
- s. 1052, par. b: unapplicable, since this amount was paid following a notice of assessment;
- s. 1052, par. c: the 46th day following the balance due date (the 46th day following 30-04-20X2): **June 15, 20X2**;
- s. 1052, par. d: the 46th day following the day on which the fiscal return was filed (the 46th day following 27-04-20X2): **June 12, 20X2**;
- s. 1052, par. e: unapplicable, since no application to amend the fiscal return was filed;
- s. 1052, par. f: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the later of these dates is **August 20, 20X2**, interest on the overpayment of \$300 must be calculated from that date.

### **Determination of the Start Date of the Period for Calculating the Interest on the \$400 Overpayment**

- s. 1052, par. a: unapplicable, since the amount of \$400 was paid by way of source deductions or quarterly instalments;
- s. 1052, par. b: the 46th day following the payment by way of source deductions or quarterly instalments (the 46th day following 31-12-20X1 at the latest, since the required source deductions or quarterly instalments must have ceased on 31-12-20X1 at the latest [the 46th day following 31-12-20X1]): **February 15, 20X2**;
- s. 1052, par. c: the 46th day following the balance due date (the 46th day following 30-04-20X2): **June 15, 20X2**;
- s. 1052, par. d: the 46th day following the day on which the fiscal return was filed (the 46th day following 27-04-20X2): **June 12, 20X2**;
- s. 1052, par. e: unapplicable, since no application to amend the fiscal return was filed;
- s. 1052, par. f: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the later of these dates is **June 15, 20X2**, interest on the overpayment of \$400 must be calculated from that date.

## **8. EXAMPLE NO. 3**

The fiscal period of corporation “A” ends on December 31. During its 20X1 fiscal period, the corporation paid tax in the amount of \$55,000 by way of instalments. On February 27, 20X2, it also paid, in accordance with paragraph *b* of section 1027 of the TA, an amount of \$1,000. Its cheque

for \$1,000 was cashed by Revenu Québec on March 3, 20X2. It filed its fiscal return on July 20, 20X2. Under section 1005 of the TA, Revenu Québec determines the tax payable to be \$53,000. On August 18, 20X2, under section 1008 of the TA, it sends the corporation a notice of assessment containing the following information:

- tax payable	\$53,000
- tax paid by instalments	\$55,000
- tax paid on 03-03-20X2	\$1,000
- overpayment	\$3,000
- refund or allocation on August 18, 20X2	

### **Determination of the Start Date of the Period for Calculating the Interest on the \$1,000 Overpayment**

- s. 1052, par. a: unapplicable;
- s. 1052, par. b: the 46th day following the day on which the overpayment was made (the 46th day following 03-03-20X2): **April 18, 20X2**;
- s. 1052, par. c: the 46th day following the filing due date (the 46th day following 30-06-20X2): **August 15, 20X2**;
- s. 1052, par. d: the 46th day following the day on which the fiscal return was filed (the 46th day following 20-07-20X2): **September 4, 20X2**;
- s. 1052, par. e: unapplicable, since no application to amend the fiscal return was filed;
- s. 1052, par. f: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the latest of these dates is **September 4, 20X2**, interest on the overpayment of \$1,000 must be calculated from that date.

### **Determination of the Start Date of the Period for Calculating the Interest on the \$2,000 Overpayment**

- s. 1052, par. a: unapplicable;
- s. 1052, par. b: the 46th day following 31-12-20X1, at the latest (the 46th day following 31-12-20X1): **February 15, 20X2**;
- s. 1052, par. c: the 46th day following the filing due date (the 46th day following 30-06-20X2): **August 15, 20X2**;
- s. 1052, par. d: the 46th day following the day on which the fiscal return was filed (the 46th day following 20-07-20X2): **September 4, 20X2**;
- s. 1052, par. e: unapplicable, since no application to amend the fiscal return was filed;
- s. 1052, par. f: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the latest of these dates is **September 4, 20X2**, interest on the overpayment of \$2,000 must be calculated from that date.

However, since Revenu Québec refunded or allocated the overpayment of \$3,000 on August 18, 20X2, i.e. before the start date of the period for calculating interest, namely September 4, 20X2, no interest must be granted on the overpayment.

On September 20, 20X2, the corporation asks Revenu Québec to amend its fiscal return. As a result of the amendment, the corporation's tax payable is reduced from \$53,000 to \$40,000. On November 20, 20X2, after an audit, Revenu Québec sends the corporation a notice of reassessment containing the following information:

- tax payable	\$40,000
- tax paid by instalments	\$55,000
- tax paid on 03-03-20X2	\$1,000
- overpayment	\$16,000
- tax refunded or allocated (18-08-20X2)	\$3,000
- net overpayment	\$13,000

### **Determination of the Start Date of the Period for Calculating the Interest on the \$13,000 Overpayment**

- s. 1052, par. a: unapplicable;
- s. 1052, par. b: the 46th day following 31-12-20X1, at the latest (the 46th day following 31-12-20X1): **February 15, 20X2**;
- s. 1052, par. c: the 46th day following the filing due date (the 46th day following 30-06-20X2): **August 15, 20X2**;
- s. 1052, par. d: the 46th day following the day on which the fiscal return was filed (the 46th day following 20-07-20X2): **September 4, 20X2**;
- s. 1052, par. e: the 46th day following the day on which the Minister received the application for amendment (the 46th day following 20-09-20X2): **November 5, 20X2**;
- s. 1052, par. f: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the latest of these dates is **November 5, 20X2**, interest on the overpayment of \$13,000 must be calculated from that date.

### **9. EXAMPLE NO. 4**

The figures in this example are identical to those of Example No. 3, except that Revenu Québec determined the tax payable to be \$57,000, rather than \$53,000, by means of a notice of assessment on August 18, 20X2, containing the following information:

- tax payable	\$57,000
- tax paid by instalments	\$55,000

- tax paid on 03-03-20X2	\$1,000
- unpaid balance	\$1,000
- balance paid on 20-09-20X2	\$1,000

On November 30, 20X2, corporation “A” asks Revenue Québec to amend its fiscal return. As a result of the amendment, the corporation’s tax payable is reduced from \$57,000 to \$40,000. The notice of reassessment of December 30, 20X2, contains the following information:

- tax payable	\$40,000
- tax paid by instalments	\$55,000
- tax paid on 03-03-20X2	\$1,000
- tax paid on 20-09-20X2	\$1,000
- overpayment	\$17,000

### **Determination of the Start Date of the Period for Calculating the Interest on the \$1,000 Overpayment (20-09-20X2)**

- s. 1052, par. a: the day on which the amount of \$1,000 was paid following a notice of assessment: **September 20, 20X2;**
- s. 1052, par. b: unapplicable;
- s. 1052, par. c: the 46th day following the filing due date (the 46th day following 30-06-20X2): **August 15, 20X2;**
- s. 1052, par. d: the 46th day following the day on which the fiscal return was filed (the 46th day following 20-07-20X2): **September 4, 20X2;**
- s. 1052, par. e: the 46th day following the day on which the Minister received the application for amendment (the 46th day following 30-11-20X2): **January 15, 20X3;**
- s. 1052, par. f: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the latest of these dates is **January 15, 20X3**, interest on the overpayment of \$1,000 must be calculated from that date.

However, since Revenu Québec refunded the overpayment of \$1,000 on December 30, 20X2, i.e. before the start date of the period for calculating interest, namely January 15, 20X3, no interest must be granted on the overpayment.

### **Determination of the Start Date of the Period for Calculating the Interest on the \$1,000 Overpayment (03-03-20X2)**

- s. 1052, par. a: unapplicable;
- s. 1052, par. b: the 46th day following the day on which the overpayment was made (the 46th day following 03-03-20X2): **April 18, 20X2;**
- s. 1052, par. c: the 46th day following the filing due date (the 46th day following 30-06-20X2): **August 15, 20X2;**

- s. 1052, par. *d*: the 46th day following the day on which the fiscal return was filed (the 46th day following 20-07-20X2): **September 4, 20X2**;
- s. 1052, par. *e*: the 46th day following the day on which the Minister received the application for amendment (the 46th day following 30-11-20X2): **January 15, 20X3**;
- s. 1052, par. *f*: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the latest of these dates is **January 15, 20X3**, interest on the overpayment of \$1,000 must be calculated from that date.

However, since Revenu Québec refunded the overpayment of \$1,000 on December 30, 20X2, i.e. before the start date of the period for calculating interest, namely January 15, 20X3, no interest must be granted on the overpayment.

### **Determination of the Start Date of the Period for Calculating the Interest on the \$15,000 Overpayment**

- s. 1052, par. *a*: unapplicable;
- s. 1052, par. *b*: the 46th day following 31-12-20X1, at the latest (the 46th day following 31-12-20X1): **February 15, 20X2**;
- s. 1052, par. *c*: the 46th day following the filing due date (the 46th day following 30-06-20X2): **August 15, 20X2**;
- s. 1052, par. *d*: the 46th day following the day on which the fiscal return was filed (the 46th day following 20-07-20X2): **September 4, 20X2**;
- s. 1052, par. *e*: the 46th day following the day on which the Minister received the application for amendment (the 46th day following 30-11-20X2): **January 15, 20X3**;
- s. 1052, par. *f*: unapplicable, since the overpayment was not determined as a result of information sent by the Government of Canada or of another province.

Since the latest of these dates is **January 15, 20X3**, interest on the overpayment of \$15,000 must be calculated from that date.

However, since Revenu Québec refunded the overpayment of \$15,000 on December 30, 20X2, i.e. before the start date of the period for calculating interest, namely January 15, 20X3, no interest must be granted on the overpayment.

### **SPECIAL CASE**

**10.** Where the Minister determined the overpayment as a result of information sent by the Government of Canada or of a province other than Québec, it is important to check whether any of paragraphs *a* to *e* of section 1052 of the TA applies. These paragraphs override paragraph *f* of section 1052 of the TA if Revenu Québec receives a refund application before it receives information from the Government of Canada or of a province other than Québec.