

Income Tax

IMP. 1053-1/R3

Interest on a Refund Resulting from a Loss Carry Back

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Reference(s):

Taxation Act (CQLR, c. I-3), sections 1052 and 1053

This version of interpretation bulletin IMP. 1053-1 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.

This bulletin explains how to determine the start date of the period for calculating the interest on an overpayment of tax following a loss carry back, in accordance with section 1053 of the *Taxation Act* (TA).

APPLICATION OF THE ACT

1. In accordance with section 1012 of the TA, where a taxpayer amends their fiscal return filed for a taxation year for the purpose of claiming a deduction, under sections 727 to 737 of the TA, for an amount of loss that may be carried back, the Minister must again assess the taxpayer's tax for the taxation year and issue a reassessment to that effect.
2. Where the Minister reassesses the tax in the circumstances described in article 1 above and this reassessment results in an overpayment by the taxpayer, such excess amount bears interest in accordance with section 1052 of the TA and the date of the overpayment must be determined in accordance with the provisions of section 1053 of the TA.
3. Hence, where a taxpayer carries back to a preceding taxation year an amount in respect of a loss sustained in another taxation year, interest shall be granted on the amount of tax paid in excess and resulting from that carry back for the period ending on the day of the refund or the allocation and commencing on the latest of the following dates:
 - (a) the forty-sixth day following the day on which an amended fiscal return or a prescribed form was filed to apply for the carry back;
 - (b) the forty-sixth day following the day on which the taxpayer files an application in writing which results in a reassessment of the Minister granting the carry back;
 - (c) the forty-sixth day following the end of the taxation year in which the loss is sustained;

(d) the forty-sixth day following the day on which the fiscal return for the taxation year referred to in c above is filed.

4. In addition, where a refund or an allocation is made up of both an amount of tax paid in excess resulting from the carry back of a loss and an another amount, articles 1, 2 and 3 apply to the first amount whereas the provisions of the current version of bulletin IMP. 1052-2 apply to the second amount.

EXAMPLES:

5. EXAMPLE NO. 1: INDIVIDUAL

- TAXATION YEAR 20X1

(a) Data

15-04-20X2:	Filing of the fiscal return in accordance with section 1000 of the TA.	
24-04-20X2:	Cashing-in of a payment on filing (POF): \$100.	
As of 30-04-20X2:	Tax paid: \$1,100 (payments and POF).	
30-06-20X2:	Original assessment in accordance with sections 1005 and 1008 of the TA:	
	• Tax payable:	\$1,000
	• Tax paid:	<u>\$1,100</u>
	• Overpayment:	\$100
	Excess to be refunded or allocated:	\$100
30-06-20X2:	Refund or allocation:	\$100

Note: interest is granted on this refund in accordance with section 1052 of the TA.

25-04-20X3:	Filing of the fiscal return for 20X2 showing a loss sustained in the year which may be carried back under sections 727 to 737 of the TA.	
30-04-20X3:	Claim for an additional refund for 20X1 resulting from the carry back of the loss sustained in 20X2.	
29-09-20X3:	Reassessment for 20X1:	
	• Tax payable:	0
	• Tax paid:	<u>\$1,000</u>
	• Overpayment resulting from the carry back of the loss:	\$1,000
	Excess to be refunded or allocated:	\$1,000
30-06-20X3:	Refund or allocation:	\$1,000

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

- s. 1053 par. a: unapplicable, since the taxpayer did not file an amended fiscal return or a prescribed form;
- s. 1053 par. b: the forty-sixth day following the day on which the taxpayer filed a written application: 46th day following 30-04-20X3: **15-06-20X3**;
- s. 1053 par. c: the forty-sixth day following the end of the year of loss (20X2): 46th day following 31-12-20X2: **15-02-20X3**;
- s. 1053 par. d: the forty-sixth day following the day on which the taxpayer filed their return for the year of loss (20X2): 46th day following 25-04-20X3: **10-06-20X3**.

Since the latest of these three dates is **15-06-20X3**, the interest on the overpayment of \$1,000 must be calculated from this date.

6. EXAMPLE NO. 2: INDIVIDUAL

- TAXATION YEAR 20X1

(a) Years

15-04-20X2:	Filing of the fiscal return in accordance with section 1000 of the TA.	
24-04-20X2:	Cashing-in of a payment on filing (POF): \$100.	
As of 30-04-20X2:	Tax paid: \$1,100 (payments and POF).	
30-06-20X2:	Original assessment in accordance with sections 1005 and 1008 of the TA:	
	• Tax payable:	\$1,200
	• Tax paid:	<u>\$1,100</u>
	• Unpaid balance:	\$100
	• Interest from 01-05-20X2 to 30-06-20X2:	<u>\$1.49</u>
	• Balance payable:	\$101.49
25-04-20X3:	Filing of the fiscal return for 20X2 showing a loss sustained in the year which may be carried back under sections 727 to 737 of the TA.	
30-04-20X3:	Claim for a refund for 20X1 resulting from the carry back of the loss sustained in 20X2.	
29-09-20X3:	Reassessment for 20X1:	
	• Tax payable:	0
	• Tax paid:	<u>\$1,100</u>
	• Overpayment resulting from carry back of the loss:	\$1,100
	Overpayment to be refunded or applied:	\$1,100
29-09-20X3:	Refund or allocation:	\$1,100

(b) Determination of the Start Date of the Period for Calculating the Interest on the \$1,100 Overpayment

This date is determined in the same way as in division b of article 5 above and is identical to the date determined therein, namely **15-06-20X3**.

NOTE

The interest on the unpaid balance of \$100 shown on the original assessment must, in accordance with section 1044 of the TA, be calculated up to the day preceding the latest of the following dates:

- s. 1044 par. a: unapplicable, since the taxpayer did not file an amended fiscal return or a prescribed form;
- s. 1044 par. b: the day on which the taxpayer filed a written application: **30-04-20X3**;
- s. 1044 par. c: the day following the end of the year of loss: the day following 31-12-20X2: **01-01-20X3**;
- s. 1044 par. d: the day on which the taxpayer filed their fiscal return for the year of loss (20X2): **25-04-20X3**.

Since the latest of these three dates is **30-04-20X3**, the interest on the unpaid balance of \$100 must be calculated up to 29-04-20X3.

Consequently, the net amount refunded or allocated by the Minister is as follows:

- Overpayment:	\$1,100.00
- Interest on this amount from 15-06-20X3 to 29-09-20X3:	<u>\$16.09</u>
- Total:	\$1,116.09
Less	
- Interest on the unpaid balance of \$100, from 01-05-20X2 to 30-06-20X2:	\$1.49
- Interest on this balance from 01-07-20X2 to 29-04-20X3:	<u>\$6.76</u>
- Total:	<u>\$8.25</u>
Net refund or allocation	\$1,107.84

PARTNERSHIPS

7. The manner of determining the period for calculating the interest on an amount of tax paid in excess by a partnership is the same as in articles 5 and 6 above, adapting it as required.