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Time limit extensions: What are the possible consequences on limitation periods for tax purposes?

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A recent Ministerial Order[1] from the Minister of National Revenue has formally extended certain deadlines under the *Income Tax Act* ("ITA") and the *Excise Tax Act* ("ETA"). The Order is retroactive to March 13, 2020.

The extension is 6 months or until December 31, 2020, whichever is earlier.

This Ministerial Order will have various implications for taxpayers and registrants, in particular in terms of limitation periods.

For example, notices of reassessment may be issued until December 31, 2020, for taxpayers whose reassessment period under the ITA expired between May 20, 2020, and December 30, 2020, even in circumstances where there is no misrepresentations attributable to negligence, carelessness or wilful default in tax returns and no waivers of the regular reassessment period have been signed.

As a result, the taxation years subject to the Order (in particular 2016 or 2017, depending on the taxpayer) and reporting periods would not be statute-barred in these circumstances. Reporting periods and taxation years that became statute-barred on or before May 19, 2020, are not subject to the Order.

It remains to be seen how the Canada Revenue Agency ("**CRA**") intends to apply the Ministerial Order. The CRA has stated that "generally, taxpayers would be informed of the details of a potential (re)assessment, including whether or not the CRA is applying an extension to a (re)assessment period under the Ministerial Order."[2]

Time limits extended by 6 months

The period for claiming SR&ED expenditures (Form T661), normally 12 months after the corporation's filing due date for a return;[3]
The period for claiming an SR&ED investment tax credit (Form T661 and Schedule 31 or Form T2038), normally 1 year after the corporation's filing due date for a return;
The normal reassessment period for a taxation year (normally 3 years or 4 years after the issuance of a notice of assessment under the ITA) that would normally have expired after May 19, 2020, but before December 31, 2020;
The normal reassessment period for a reporting period (normally 4 years following the issuance of an assessment under the ETA) that would normally have expired after May 19, 2020, but before December 31, 2020;
The deadline for applying for an extension of time to file a Notice of Objection under the ITA and the ETA that would normally have expired after March 12, 2020 (normally 1 year after the expiry of the time limit for filing a Notice of Objection), as well as the time limit for appeal of the Minister's decision dismissing such an application with the Tax Court of Canada.

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1. *Canada Gazette*, Part I, Vol. 154, No. 37: COMMISSIONS, September 12, 2020
2. https://www.canada.ca/en/revenue-agency/services/covid-19-ministerial-orders/time-period-other-limits-faq.html
3. For corporations and trusts with a tax year-end from September 13, 2018, to December 31, 2018, and an SR&ED reporting deadline from March 13, 2020, to June 30, 2020, the deadline is extended by 6 months. For corporations and trusts with a tax year-end from January 1, 2019, to June 29, 2019, and an SR&ED reporting deadline from July 1, 2020, to December 29, 2020, the deadline is extended to December 31, 2020. For individuals who operated a sole proprietorship for which the tax year ended on December 31, 2018, and whose SR&ED reporting deadline was June 15, 2020, the deadline is extended to December 15, 2020.

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