

TAX TOOLKIT

SEPARATION AND DIVORCE



The Clear Road to a New Life[®]

Fairway
Divorce Solutions[®]

Table of Contents

Working with the tax system

Thinking about the tax consequences.....	3
Asking questions.....	3
Keeping receipts and important information.....	4
Filing tax forms	4
Getting advice.....	5

Important CRA forms related to separation and divorce..... 6

About a change in marital status.....	7
About support payments.....	7
About RRSPs, RRIFs, and SPPs	8

Working with the Tax System

Thinking about the tax consequences

The Tax Toolkit will help people who are separating or divorcing understand how tax rules might affect their options and future finances.

Action for taxpayers

- Look for handy links to Canada Revenue Agency (CRA) and Department of Justice Canada web sites where there is more detailed information, forms, calculators, and other resources.

Asking questions

Everyone has questions about tax rules and how they apply in a particular situation. Step one is to appreciate that separation and divorce decisions, particularly when there are children, property, or pensions involved, have tax implications. Step two is to become informed so that there are no tax surprises later. This Toolkit and your Mediator will help with this.

Action for taxpayers

Make use of CRA and Department of Justice Canada web sites, written materials, and call centres.

- [CRA main menu](http://www.cra.gc.ca/) (<http://www.cra.gc.ca/>)
- TIPs (Tax Information Phone Service) – recorded messages on key topics – 1-800-267- 6999
- [Email to connect to a CRA agent](https://apps.cra-arc.gc.ca/ebsi/iesl/clicktotalk/ntr.action) (<https://apps.cra-arc.gc.ca/ebsi/iesl/clicktotalk/ntr.action>)
- Telephone – 1-800-959-8281 for general inquiries; 1-800-387-1193 for Canada Child Tax Benefit; 1-800-959-1953 for GST/HST credit
- [Child support guidelines](http://www.justice.gc.ca/eng/rp-pr/fl-lf/child-enfant/guide/) information, 1-888-373-2222 (<http://www.justice.gc.ca/eng/rp-pr/fl-lf/child-enfant/guide/>)

Keeping receipts and important information

People usually don't treat their marriage or common-law relationship as a business. It's a personal affair where incomes may be blended, expenses shared, and who gave what to whom usually gets confused over time. There may not be much of a paper trail.

Unfortunately, after separation, it's necessary to become more business-like. Keeping records and receipts is important. Storing cancelled cheques to prove payment matters. Keeping basic information, such as past T1 Income Tax and Benefit Returns, saves time when completing new forms.

Action for taxpayers

Keep paperwork: the signed separation agreement, court orders and bills for household items such as electricity, receipts for a child's day camp or extraordinary expenses. Keeping all the paperwork organized in one place, even if it is in a shoebox, is important when completing CRA forms and responding to a request for proof of separation, expenses, etc.

Filing tax forms

Under Canada's self-assessment tax system, taxpayers generally file a T1 Return every year to report their income. They must also provide CRA with other forms and receipts when requested. Even when someone has no income to report, filing a T1 Return is important to determine eligibility for the GST/HST credit and the Canada Child Tax Benefit (CCTB).

By submitting completed forms promptly, taxpayers make sure that CRA has necessary information.

For example: filing the [Marital Status Change](http://www.cra-arc.gc.ca/E/pbg/tf/rc65/README.html) (<http://www.cra-arc.gc.ca/E/pbg/tf/rc65/README.html>) form may reduce difficulties proving the timing of separation to CRA later and may result in beneficial changes to the Canadian Child Tax Benefit or GST/HST credit payments for the taxpayer.

Action for taxpayers

Notify CRA

- after being separated for 90 days in a row
- immediately after a court-granted divorce by:
 - sending the [Marital Status Change](http://www.cra-arc.gc.ca/E/pbg/tf/rc65/README.html) form (<http://www.cra-arc.gc.ca/E/pbg/tf/rc65/README.html>)
 - calling 1-800-387-1193, or
 - going to [My Account](http://www.cra.gc.ca/myaccount), your on-line CRA Account (<http://www.cra.gc.ca/myaccount>)
- Set up an on-line account with CRA. You'll be able to track what's happening in your CRA file and send forms to CRA electronically. Find out what [you can do on-line through](http://www.cra-arc.gc.ca/esrvc-srvce/tx/ndvdl/myccnt/hlp-eng.html#mao.a1-6) (<http://www.cra-arc.gc.ca/esrvc-srvce/tx/ndvdl/myccnt/hlp-eng.html#mao.a1-6>) CRA's MyAccount.

Getting advice

Some people's personal situations are more complicated than others such as, blended families, business owners, pension income from several sources and those having more than one ex-spouse or common-law partner. Even when a person's situation seems straightforward there may be some tax-related twists and turns.

Here are some questions to ask to decide whether or not it is worthwhile to get the next level of professional assistance over and above your Mediator. A "yes" answer to any of these questions suggests that more help may be a good idea.

- Is there a significant amount of money involved?
- Will the answer to a tax question have a long-term effect?
- Is the uncertainty over the tax issue causing conflict between the divorcing spouse or common-law partners?
- Would the answer to the tax question(s) justify the cost in finding it out?

Tax issues can be daunting. Sometimes it may be hard to understand how to apply general information to your personal situation.

Important CRA forms related to separation and divorce

About a change in marital status

Form: RC65 Marital Status Change (<http://www.cra-arc.gc.ca/E/pbg/tf/rc65/README.html>)

Action

Makes CRA aware of a divorce or separation, which may affect CCTB and GST/HST credits. Also helps to establish that a separation or divorce has taken place, which may be useful when claiming credits and deductions on a return.

File as soon as possible and not later than the month following the month in which your marital status changed by court order. In cases of separation, file 90 days after the date of separation.

About support payments

Form: T1157 Election for Child Support Payments (<http://www.cra-arc.gc.ca/E/pbg/tf/t1157/>)

Action

Applies to child support payments under a court order or written agreement made *before* May 1, 1997.

Allows parents with court orders or written agreements made before May 1, 1997 to choose to have child support payments payable after a set date not taxable for the recipient or deductible for the payer. Child support payments are not taxable for the recipient or deductible for the payer when the written agreement or court order was made after April 1997.

Both the payer and the recipient have to sign the form.

Use for older written agreements and court orders when this approach to tax treatment is beneficial to the ex-spouses.

Form: [T1158 Registration of Family Support Payments](http://www.cra-arc.gc.ca/E/pbg/tf/t1158/README.html) (<http://www.cra-arc.gc.ca/E/pbg/tf/t1158/README.html>)

Action

Advises CRA of a court order or written agreement made *after* April 30, 1997, which, specifies support payments for a spouse or common-law partner.

Or, advises CRA of a court order or written agreement made before May 1997 which sets out support payments for a spouse or clearly distinguishes between child and spousal support payments and:

- Form T1157 has been filed, **or**
 - the child support amount was changed by a court order or written agreement after April 1997.
- Form requires social insurance numbers for both the payer and recipient.

Use to register a court order or written agreement that requires support payments for a spouse or common-law partner **or** to inform CRA of changes to a pre-May 1997 order that requires support payments for a spouse or for a spouse and child (children).

Forms:

- [RC66 Canada Child Benefits Application](http://www.cra-arc.gc.ca/E/pbg/tf/rc66/README.html) (<http://www.cra-arc.gc.ca/E/pbg/tf/rc66/README.html>)
- [Information Booklet T4114](http://www.cra-arc.gc.ca/E/pub/tg/t4114/t4114-13e.pdf) (<http://www.cra-arc.gc.ca/E/pub/tg/t4114/t4114-13e.pdf>)
- [Information on GST/HST credit](http://www.cra-arc.gc.ca/E/pub/tg/rc4210/rc4210-e.html) (<http://www.cra-arc.gc.ca/E/pub/tg/rc4210/rc4210-e.html>)

Action

Asks CRA to recognize a change in parenting arrangements for a child (children) for whom benefits are being or could be paid. For example, to divide the CCTB 50/50 when there is now a shared parenting arrangement. This will also affect the Universal Child Care Benefit and GST/HST credit.

Form asks for former spouse's social insurance number.

Use [CCTB calculator](http://www.cra-arc.gc.ca/bnfts/clcltr/cctb_clcltr-eng.html) (http://www.cra-arc.gc.ca/bnfts/clcltr/cctb_clcltr-eng.html) to determine amount that might be paid.

Use [GST/HST credit calculator](http://www.cra-arc.gc.ca/bnfts/clcltr/gstc_clcltr-eng.html) (http://www.cra-arc.gc.ca/bnfts/clcltr/gstc_clcltr-eng.html) to determine the GST/HST credit available.

Form: [T2091 Designation of a Property as a Principal Residence by an Individual \(other than a Personal Trust\)](http://www.cra-arc.gc.ca/E/pbg/tf/t2091_ind/) (http://www.cra-arc.gc.ca/E/pbg/tf/t2091_ind/)

Action

Advises CRA of the dates a home was designated as a principal residence. When it was not the principal residence, the form identifies the capital gain.

Form to be completed when a capital gain has to be reported related to the sale or disposition of a home which was not a principal residence for all the time it was owned.

Recognize the tax implications when spouses / common-law partners are going through marriage breakdown and have two homes. The tax rules say that spouses / common-law partners may have only one principal residence for a particular year until they have been living apart throughout a complete calendar year and have a written agreement or court order.

About RRSPs, RRIFs, and SPPs

Form: [T2220 Transfer from an RRSP or RRIF to Another RRSP or RRIF on Breakdown of Marriage or Common-law Partnership](http://www.cra-arc.gc.ca/E/pbg/tf/t2220/t2220-12e.pdf) (<http://www.cra-arc.gc.ca/E/pbg/tf/t2220/t2220-12e.pdf>)

Action

Advises CRA of the transfer of holdings directly from one former spouse's or common-law partner's RRSP, RRIF, or Specified Pension Plan (SPP) to the other former spouse's or common-law partner's RRSP, RRIF, or SPP, according to a court order or written agreement.

Form to be completed by both spouses and the administrators of the transferring and receiving RRSP, RRIF, or SPP.

Use so the funds are properly rolled over from one account to the other and are not taxable.

Form: T2151 Direct Transfer of a Single Amount Under Subsection 147(19) or Section 147.3 (<http://www.cra-arc.gc.ca/E/pbg/tf/t2151/t2151-12e.pdf>)

Action

Advises CRA of the transfer of a one-time amount directly from one former spouse's RRSP, RRIF, Registered Pension Plan (RPP), Specified Pension Plan (SPP), or Deferred Profit Sharing Plan (DPSP) to the other former spouse's RRSP, RRIF, RPP, SPP, or DPSP, according to a written agreement or court order.

Form to be completed by the plan member or beneficiary asking the administrator to transfer the funds.

Use so the CRA is notified of the transfer and taxes are not deducted or owing on the amount transferred.

Form: T1198 Statement of Qualifying Retroactive Lump-Sum Payment (<http://www.cra-arc.gc.ca/E/pbg/tf/t1198/README.html>)

Action

Advises CRA of a lump-sum payment that qualifies for special tax treatment. Lump-sum payments for overdue spousal / common-law partner support or taxable child support owing under a written agreement or court order are qualifying retroactive lump-sum payments (QRLSP).

Form to be completed by the payer and given to the recipient of the QRLSP.

Completed form to be submitted by the recipient with the tax return for the year in which the lump sum payment was received.

Use to report the whole QRLSP in the year it is received. When the amount covers arrears of at least \$3,000 (not including interest) from previous years, the recipient may ask CRA to tax the portions that were owed in the previous years as if they were received in those years. CRA will make the adjustments when it is to the recipient's tax advantage. The recipient must have been resident in Canada throughout those years.

Form: T1213 Request to Reduce Tax Deductions at Source for Year(s)
(<http://www.cra-arc.gc.ca/E/pbg/tf/t1213/README.html>)

Action

Asks CRA for permission to ask an employer to reduce taxes deducted at source from a salary or lump-sum payment. Reductions may be made to tax deductions and non-refundable tax credits that are not part of the TD1, *Personal Tax Credits Return*. The taxpayer must be up-to-date on filing T1 Returns and have no amounts owing to CRA.

Form to be submitted to CRA by taxpayer, usually on an annual basis.

Use to keep funds with taxpayer through the year instead of getting a refund after filing a return.

Form: TD1 (Federal; Provincial & Territorial) [Annual] Personal Tax Credits Return
(<http://www.cra-arc.gc.ca/E/pbg/tf/td1/td1-14e.pdf>)

Action

Gives an employer information to ensure deductions at source from a salary, commission, pension, etc. will more realistically reflect the taxpayer's non-refundable tax credits and certain other tax deductions. A taxpayer can use this form to increase the amount of tax deducted at source.

Form to be completed by taxpayer and submitted to employer.

Use, for example, to increase the amount of taxes deducted at source to avoid a large tax bill when filing a return when receiving spousal support payments or taxable child support payments.

Form: T1013 Authorizing or Cancelling a Representative
(<http://www.cra-arc.gc.ca/E/pbg/tf/t1013/>)

Action

Gives CRA permission to disclose income tax information regarding a taxpayer to the person named on the form, or for that person to request changes to the taxpayer's return.

Form to be signed by the taxpayer giving or withdrawing permission.

Use to authorize a lawyer, accountant, bookkeeper or someone else to access a taxpayer's account and discuss it with CRA **or** to cancel the permission.

The information in the Toolkit covers federal tax rules under the *Income Tax Act* and other federal legislation. The information in the Toolkit needs to be considered in context with provincial tax rules, as well.