



Bankruptcy





Under the *Bankruptcy and Insolvency Act*, persons who declare bankruptcy are discharged from paying most of their debts. However, they are subject to certain obligations regarding, for example, the way in which they report their income for the year of the bankruptcy or the way in which they claim the tax credits to which they are entitled. This folder provides information on the tax consequences of bankruptcy for individuals.



Your tax obligations following a bankruptcy

If you declare bankruptcy, you must report your income and claim the tax credits and amounts to which you are entitled as described below.

You are required to complete **two** income tax returns for the year of the bankruptcy:

- the first for the period **before the bankruptcy** (from January 1 to the day preceding the date of the bankruptcy); and
- the second for the period **after the bankruptcy** (from the date of the bankruptcy to December 31).

Each return must be filed using the personal income tax return (form TP-1.D-V).

Both returns must be filed by April 30 (or June 15, if you or your spouse carried on a business) of the calendar year following the year of the bankruptcy.

Your tax obligations following a payment offer

Before you declare bankruptcy, or even during bankruptcy proceedings, you may make a payment offer to your creditors (a proposal in bankruptcy or a consumer proposal) in order to change your obligations in their regard.

If the payment offer was made before April 15, 2008, you may decide to file two income tax returns, even if you did not declare bankruptcy. As a rule, you must follow the instructions pertaining to bankruptcy given in the guide to the income tax return (TP-1.G-V).

If the payment offer is made after April 14, 2008, you must file only one income tax return.

The tax obligations of your trustee in bankruptcy

At the time of the bankruptcy, a trustee is appointed to manage and liquidate your property.

The trustee is required to file any income tax returns you have not filed

- for the two years preceding the bankruptcy; and
- for the period from January 1 to the day preceding the date of the bankruptcy.

The trustee will also be required to file returns for the years following the bankruptcy to report the income derived from bankruptcy operations (such as investment income or withdrawals from an RRSP).

Note that if a payment offer is made to the creditors, the trustee has no return to file.

Determination of the date of bankruptcy

The date of your bankruptcy depends on the process by which you declare bankruptcy.

A person who declares bankruptcy assigns his or her property, and must therefore remit the requisite documents to the official receiver (a government employee appointed under the *Bankruptcy and Insolvency Act*). The date on which the documents are remitted to the receiver is the **date of bankruptcy**.

However, when bankruptcy is declared by court order upon the petition of a creditor, the date of the judgment is the **date of bankruptcy**.

How to complete your income tax returns

As you are required to file two returns for the year of the bankruptcy, you should know in which return you can claim the tax credits and amounts to which you are entitled.

Certain amounts and tax credits must be divided between the return for the period **before the bankruptcy** and the return for the period **after the bankruptcy**, in proportion to the number of days covered by each return. These amounts and tax credits are the following:

- the basic personal amount (plus the complementary amount, if applicable);
- the adjustment for income replacement indemnities;
- the amount for dependants;
- the amount transferred by a child 18 or over enrolled in post-secondary studies;
- the amount for a severe and prolonged impairment in mental or physical functions;
- tuition or examination fees transferred by a child.

Other tax credits and amounts can be claimed only in the income tax return filed for the period **after the bankruptcy**. Your income for the **entire year** will be taken into account in the calculation of the tax credits and amounts to which you are entitled. These tax credits and amounts include the following:

- the QST credit;
- the age amount, the amount for a person living alone and the amount for retirement income;
- the amount for medical expenses and the refundable tax credit for medical expenses;
- tax credits transferred from one spouse to the other;
- the tax credit for child-care expenses;
- the tax credit for home-support services for seniors;

- the tax credit for recent graduates working in remote resource regions;
- the property tax refund;
- the tax credit for caregivers.

Also, the following contributions must be entered in the income tax return for the period **after the bankruptcy**:

- the Québec Pension Plan contribution and the Québec parental insurance plan premium on income from self-employment, and any optional contributions;
- the contribution to the health services fund;
- the premium payable under the Québec prescription drug insurance plan.

Example

Jeff declared bankruptcy on August 20. He is therefore required to file two income tax returns for the year: the first for the period from January 1 to August 19 (in which he will report a net income of \$10,000), and the second for the period from August 20 to December 31 (in which he will report a net income of \$43,000).

With a total net income of \$53,000, Jeff is not entitled to the QST credit, and therefore cannot claim it in the return for the period after the bankruptcy.

For more information, refer to the paragraphs pertaining to bankruptcy in the “General information” section of the guide to the income tax return (TP-1.G-V).

Exceptions

In the return for the period after the bankruptcy, you cannot claim or carry forward donations, tuition fees, examination fees or interest on a student loan that you paid before the date of bank-

ruptcy. Similarly, you cannot carry forward capital losses and non-capital losses sustained before declaring bankruptcy.

Special rules

- You cannot carry over the alternative minimum tax.
- The operation of a business does not necessarily cease upon bankruptcy. If you are a self-employed person, you can ask to have your fiscal period end on the day preceding the date of bankruptcy.

Refunds

You cannot apply for an accelerated refund in your returns for the year of bankruptcy.

Please note that any refund to which you are entitled will be applied first to the payment of your tax debts or other debts that you may owe to the government under one of the following statutes:

- the *Act to facilitate the payment of support*;
- the *Act respecting the Société d'habitation du Québec*;
- the *Act respecting income support, employment assistance and social solidarity*;
- the *Act respecting financial assistance for education expenses*;
- the *Act respecting family benefits*;
- the *Act respecting parental insurance*;
- the *Health insurance act*.

Any excess amount may be remitted to you, provided you have filed all of your income tax returns for the taxation years prior to the bankruptcy, including the one for the period from January 1 to the day preceding the date of bankruptcy.

This publication is provided for information purposes only. It does not constitute a legal interpretation of the *Taxation Act* or any other legislation.

To contact us



By Internet

We invite you to visit our website at www.revenu.gouv.qc.ca.



By telephone

Hours of availability for telephone service

Monday, Tuesday, Thursday and Friday: 8:30 a.m. to 4:30 p.m.
Wednesday: 10:00 a.m. to 4:30 p.m.

Information concerning individuals and individuals in business

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Information concerning businesses, employers and consumption taxes

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