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BANKRUPTCY

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Bankruptcy is a legal process whereby individuals are discharged from paying most of their debts under the *Bankruptcy and Insolvency Act*. However, filing for bankruptcy entails certain obligations that may affect the way you report your income for the year of the bankruptcy or the way you claim deductions and tax credits to which you are entitled. This publication explains the tax effects of bankruptcy for individuals (other than trusts).

Your tax obligations following a bankruptcy

If you declare bankruptcy, you must follow a specific procedure in order to report your income and claim any deductions and tax credits to which you are entitled.

You must file **two** personal income tax returns (form TP-1.D-V) 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);
- the second for the period after the bankruptcy (from the date of the bankruptcy to December 31).

Both returns must be filed by April 30 of the calendar year following the year of the bankruptcy. However, if you or your spouse carried on a business, you have until June 15 of that year to file the returns.

Your tax obligations following a proposal in bankruptcy or consumer proposal

You can file a proposal in bankruptcy or a consumer proposal to avoid bankruptcy or end bankruptcy proceedings.

If you file such a proposal, you are not considered to have filed for bankruptcy and are therefore required to file a single income tax return for the entire year.

The tax obligations of your trustee in bankruptcy

At the time of the bankruptcy, a trustee is appointed to manage and liquidate your property and to make sure that your debts are paid off.

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

- for the taxation year that precedes the calendar year in which you declared bankruptcy; and
- for the taxation year that begins on January 1 of the year of the bankruptcy and ends on the day preceding the date of the bankruptcy.

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

Note that if you file a proposal in bankruptcy or a consumer proposal, the trustee has no return to file.



Determining the date of bankruptcy

The date of bankruptcy depends on how you declare bankruptcy.

If you declare bankruptcy, you assign your property and are therefore required to give certain documents to the official receiver (a government employee appointed under the *Bankruptcy and Insolvency Act*). In such a case, the **date of the bankruptcy** is the date on which the documents are given to the receiver.

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

If you file a **proposal in bankruptcy** that is rejected by creditors, the date of the bankruptcy is the date the proposal is rejected, since your property is deemed to have been assigned on that date. If your **consumer proposal** is rejected by creditors, there is no automatic bankruptcy.

Completing your income tax returns

Since you must file two income tax returns for the year of the bankruptcy, you need to know which return to use to claim any deductions and tax credits and how to calculate them (see the tables below for more information).

Income tax return for the period from January 1 to the day preceding the date of the bankruptcy			
	Contribution or premium based on your income for the period covered by the return	Contribution based on your income for the entire year	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Non-refundable tax credits			
Basic personal amount (line 350) ¹			X
Adjustment for income replacement indemnities (line 358)			X²
Amount for dependants (line 367)			X
Amount transferred by a child 18 or over enrolled in post-secondary studies (line 367)			X
Amount for a severe and prolonged impairment in mental or physical functions (line 376)			X
Tax credit for tuition or examination fees transferred by a child (line 398.1)			X



Income tax return for the period from January 1 to the day preceding the date of the bankruptcy			
	Contribution or premium based on your income for the period covered by the return	Contribution based on your income for the entire year	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Contributions and premiums payable³			
Additional contribution for subsidized educational childcare (line 434)		X⁴	
Québec parental insurance premium (QPIP) [line 439]	X		
Québec Pension Plan (QPP) contribution on income from self-employment (line 445)	X⁵		
Contribution to the health services fund (line 446)	X		

1. The line numbers in this table refer to lines in the personal income tax return (TP-1.D-V).
2. If you started or stopped receiving income replacement indemnities in the calendar year, you must determine the number of days in the period covered by the return versus the number of days in the calendar year in which you received the indemnities.
3. The contributions and premiums are provable claims in a bankruptcy, subject to the election in note 5 for QPP contributions.
4. Determine whether you are required to pay a contribution based on your income for the entire year (Schedule I). If you are, calculate the contribution based on your family income for the previous calendar year and the number of days of care included in the period covered by the return.
5. You can opt to contribute to the QPP only in the return that covers the period that starts on the date of the bankruptcy. However, for calculation purposes you can use your pensionable earnings for the entire calendar year. That way, all income from self-employment can be entered in the Record of Contributors for the year. To do this, check the appropriate box on line 21 of the return that covers the period before the bankruptcy. For more information, see "You declared bankruptcy" in the guide to the personal income tax return (TP-1.G-V).



Income tax return for the period from the date of the bankruptcy to December 31				
	Contribution or premium based on your income for the period covered by the return	Amount, tax credit, contribution or premium based on your income for the entire year	Tax credit based on your income for the period covered by the return	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Non-refundable tax credits				
Basic personal amount (line 350) ¹				X
Adjustment for income replacement indemnities (line 358)				X²
Age amount (line 361)		X		
Amount for a person living alone (line 361)		X		
Amount for retirement income (line 361)		X		
Amount for dependants (line 367)				X
Amount transferred by a child 18 or over enrolled in post-secondary studies (line 367)				X
Amount for a severe and prolonged impairment in mental or physical functions (line 376)				X
Amount for medical expenses (line 381)		X		
Tax credit for recent graduates working in remote resource regions (line 392)		X		
Tax credit for tuition or examination fees transferred by a child (line 398.1)				X
Contributions and premiums payable				
Credits transferred from one spouse to the other (line 431)		X		
Additional contribution for subsidized educational childcare (line 434)		X³		
Québec parental insurance premium (QPIP) [line 439]	X			



Income tax return for the period from the date of the bankruptcy to December 31				
	Contribution or premium based on your income for the period covered by the return	Amount, tax credit, contribution or premium based on your income for the entire year	Tax credit based on your income for the period covered by the return	Amount or tax credit based on the number of days in the period covered by the return versus the number of days in the calendar year
Québec Pension Plan (QPP) contribution on income from self-employment (line 445)	X⁴			
Contribution to the health services fund (line 446)	X			
Premium payable under the Québec prescription drug insurance plan (line 447)		X⁵		
Refundable tax credits				
Tax credit for childcare expenses (line 455)		X		
Tax credits respecting the work premium (line 456)		X		
Tax credit for home-support services for seniors (line 458)		X		
Refundable tax credit for medical expenses (line 462)		X		
Tax credit for caregivers (line 462)		X		
Tax credit to be claimed in the income tax return				
Solidarity tax credit (Schedule D)			X	

1. The line numbers in this table refer to lines in the personal income tax return (TP-1.D-V).
2. If you started or stopped receiving income replacement indemnities in the calendar year, you must determine the number of days in the period covered by the return versus the number of days in the calendar year in which you received the indemnities.
3. Determine whether you are required to pay a contribution based on your income for the entire year (Schedule I). If you are, calculate the contribution based on your family income for the previous calendar year and the number of days of care included in the period covered by the return.
4. You can opt to contribute to the plan only in the return that covers the period that starts on the date of the bankruptcy. However, for calculation purposes you can use your pensionable earnings for the entire calendar year. That way, all income from self-employment can be entered in the Record of Contributors for the year. For more information, see “You declared bankruptcy” in the guide to the personal income tax return (TP-1.G-V).
5. Complete Schedule K as though you had not filed for bankruptcy. We will calculate the amount of your premium for the period that starts on the date of the bankruptcy.



Example

Jeff is self-employed and declared bankruptcy on August 20, 2016.

Jeff's net business income for the period from January 1 to August 19, 2016 (the day before the date of the bankruptcy), was \$10,000. For the period from August 20 (the date of the bankruptcy) to December 31, 2016, his net business income was \$60,000. Jeff did not earn any other income in 2016.

He must therefore file two income tax returns for 2016:

- the first for the period from January 1 to August 19, in which he must report \$10,000 in net business income on line 164; and
- the second for the period from August 20 to December 31, in which he must report \$60,000 in net business income on line 164.

Jeff lives with his four-year-old son, Nathan. In 2016, Nathan received subsidized childcare for 229 days, according to the number of days of care entered in box B of the RL-30 slip issued by his childcare provider. The days of care break down as follows: 140 days between January 1 and August 19, 2016, and 89 days from August 20 to December 31, 2016.

Jeff's family income for 2015 (line 275 of his 2015 income tax return) was \$75,000, and his medical bills for 2016 were \$2,800.



Amount, tax credit, contribution or premium	Income tax return for the period from January 1 to August 19, 2016	Income tax return for the period from August 20 to December 31, 2016
Basic personal amount for 2016 (\$11,550, line 350)	<p>Jeff is entitled to an amount equal to the basic personal amount multiplied by the number of days in the period, divided by the number of days in the year.</p> <p>$\\$11,550 \times 232 \text{ days} / 366^1 \text{ days} = \mathbf{\\$7,321.31}$</p>	<p>$\\$11,550 \times 134 \text{ days} / 366 \text{ days} = \mathbf{\\$4,228.69}$</p>
Amount for a person living alone (line 361)	—	<p>Since Jeff's family income is greater than the maximum family income for 2016 (\$51,500), he is not entitled to the amount for a person living alone.</p>
Amount for medical expenses (line 381)	—	<p>Jeff is entitled to the amount of medical expenses he paid minus the amount obtained by multiplying his total income for the year by 3%.</p> <p>$\\$2,800 - (\\$70,000 \times 3\%) = \mathbf{\\$700}$</p>
Additional contribution for subsidized educational childcare (line 434)	<p>Since Jeff's family income is greater than the maximum family income for 2016 and 2015 (\$50,545), he is required to pay an additional contribution equal to the additional contribution per day multiplied by the number of days of care included in each period.</p> <p>$\\$0.70 \times 140 \text{ days} = \mathbf{\\$98}$</p>	<p>$\\$0.70 \times 89 \text{ days} = \mathbf{\\$62.30}$</p>
Québec parental insurance premium (QPIP) [line 439]	<p>Jeff is required to pay a premium equal to his income subject to the QPIP for the period multiplied by the premium rate for 2016 (0.973%).</p> <p>$\\$10,000 \times 0.973\% = \mathbf{\\$97.30}$</p>	<p>Jeff is required to pay a premium equal to the lesser of the following:</p> <ul style="list-style-type: none"> the QPIP premium for the year minus the QPIP premium for the period preceding the bankruptcy $\\$681.10 - \\$97.30 = \\$583.80$ the QPIP premium for the year multiplied by the income subject to the QPIP for the period that starts on the date of the bankruptcy, divided by the income subject to the QPIP for the year $\\$681.10 \times \\$60,000 / \\$70,000 = \mathbf{\\$583.80}$
Québec Pension Plan (QPP) contribution (line 445)	<p>Jeff is required to pay a contribution equal to his pensionable earnings for the period minus the \$3,500 exemption, multiplied by the contribution rate for 2016 (10.65%).</p> <p>$(\\$10,000 - \\$3,500) \times 10.65\% = \mathbf{\\692.25^2}</p>	<p>Jeff is required to pay a contribution equal to the lesser of the following:</p> <ul style="list-style-type: none"> the QPP contribution for the year minus the QPP contribution for the period preceding the bankruptcy $\\$5,474.10 - \\$692.25 = \\$4,781.85$ the QPP contribution for the year multiplied by the pensionable earnings for the period that starts on the date of the bankruptcy, divided by the pensionable earnings for the year $\\$5,474.10 \times \\$60,000 / \\$70,000 = \mathbf{\\$4,692.09}$



Amount, tax credit, contribution or premium	Income tax return for the period from January 1 to August 19, 2016	Income tax return for the period from August 20 to December 31, 2016
Contribution to the health services fund (line 446)	<p>Jeff must determine his contribution based on his income subject to the health services fund for this period.</p> <p>Since his income for this period (\$10,000) does not exceed the qualifying threshold for 2016 (\$14,440), Jeff is not required to make a contribution to the health services fund.</p>	<p>Jeff is required to pay a contribution equal to the lesser of the following:</p> <ul style="list-style-type: none"> the contribution to the health services fund for the year minus the contribution to the health services fund for the period preceding the bankruptcy \$348 - 0 = \$348 the contribution to the health services fund for the year multiplied by the income subject to the health services fund for the period starting on the date of the bankruptcy, divided by the income subject to the contribution for the year $\\$348 \times \\$60,000 / \\$70,000 = \mathbf{\\$298.29}$
Premium payable under the Québec prescription drug insurance plan (line 447)	—	Jeff must complete Schedule K as though he had not filed for bankruptcy. We will calculate the amount of his premium for the period that starts on the date of the bankruptcy. ³
Tax credit for childcare expenses (line 455)	—	Jeff's childcare expenses do not give entitlement to the tax credit.
Solidarity tax credit (Schedule D)	—	Jeff's income for the period starting on the date of the bankruptcy (\$60,000) is too high for him to be entitled to the credit.

1. Since it was a leap year, 2016 had 366 days.
2. Jeff could have opted to contribute to the QPP only in the return covering the period that started on the date of the bankruptcy while taking into account his pensionable earnings for the entire calendar year.
3. Jeff's premium is determined by subtracting the monthly premiums for the period preceding the bankruptcy (\$53.33 for the first six months of 2016 and \$55 for the following two months) from the contribution for the 2016 calendar year (\$650 for a person who must pay a premium for the entire year) and multiplying the result by the ratio of income for the period from the date of the bankruptcy to December 31 to income for the entire year: $[\$650 - (\$53.33 \times 6) - (\$55 \times 2)] \times \$60,000 / \$70,000 = \188.59 .



Exceptions

In the return for the period starting on the date of 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 bankruptcy. Similarly, you cannot carry forward capital losses or non-capital losses sustained before declaring bankruptcy.

Special rule

If you declare bankruptcy, you cannot carry over the alternative minimum tax.

Refunds

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

Any amount (a tax refund, for example) to which you are entitled may first be applied to the payment of your tax debts and then to the payment of any other debts you may have to the government under the following laws:

- the *Act to facilitate the payment of support*
- the *Act respecting the Société d'habitation du Québec*
- the *Individual and Family Assistance Act*
- the *Act respecting financial assistance for education expenses*
- the *Act respecting family benefits*
- the *Act respecting parental insurance*
- the *Health Insurance Act*
- the *Environment Quality Act*

Example

Joyce declared bankruptcy on March 31. When filing her returns, she claimed a total of \$2,000 in refunds. However, since she owed \$1,500 under the *Act respecting financial assistance for education expenses*, she only received \$500.



If you file a return for a period or taxation year ending after the date of the bankruptcy, you cannot claim a refund or other amount for a period or taxation year ending on or before the date of the bankruptcy.

However, any excess amount will be remitted to you if, on the day you claim the refund or amount:

- you have filed all of your income tax returns for the taxation years prior to the bankruptcy, including the return for the period from January 1 to the day preceding the date of the bankruptcy;
- you have filed all the returns and reports you were required to file under a tax law for the periods or taxation years prior to the bankruptcy; and
- you have paid all the amounts due prior to the bankruptcy for those periods or taxation years.

Note that the same rules apply if you file a proposal in bankruptcy or consumer proposal.



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