

The Maintenance Payments Remission Regulations

being

[Chapter F-13.4 Reg 9](#) (effective August 29, 1995).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

- 1 Title
- 2 Interpretation
- 3 Remission granted
- 4 Conditions
- 5 Actions to be discontinued

CHAPTER F-13.4 REG 9
The Financial Administration Act, 1993

Title

1 These regulations may be cited as *The Maintenance Payments Remission Regulations*.

Interpretation

2(1) In these regulations:

- (a) “**Act**” means *The Income Tax Act*;
- (b) “**allowance**” means an amount paid by a taxpayer to a recipient on a periodic basis:
 - (i) after December 11, 1979 and before February 11, 1988; and
 - (ii) pursuant to an order made by a competent tribunal after December 11, 1979 and before February 11, 1988, in accordance with the laws of a province.

(2) Terms used in these regulations that are also used in the Act have the same meaning in these regulations as in the Act.

15 Sep 95 cF-13.4 Reg 9 s2.

Remission granted

3(1) Subject to the other provisions of these regulations, a taxpayer is granted a remission for the taxation year if, during a taxation year ending after 1978 and before 1989, the taxpayer:

- (a) paid an allowance for the maintenance of the recipient of the allowance, of the children of the recipient, or of both the recipient and the children of the recipient; and
- (b) was living apart from the recipient at the time the payment was made and during the remainder of the taxation year.

(2) The amount of the remission granted pursuant to subsection (1) for a taxation year is equal to the amount, if any, by which the taxes, interest and penalties payable by the taxpayer pursuant to the Act for the taxation year exceed the taxes, interest and penalties that would have been payable by the taxpayer pursuant to the Act for the taxation year if, in computing the taxpayer’s income for the taxation year, all allowances mentioned in subsection (1) paid by the taxpayer during the taxation year were deducted.

15 Sep 95 cF-13.4 Reg 9 s3.

Conditions

4(1) The remission granted pursuant to section 3 for a taxation year is subject to the condition that the taxpayer make an application for the remission in writing to the Minister of National Revenue on or before December 31, 1995.

(2) Where the taxpayer made the application mentioned in subsection (1) on or before December 31, 1991, the remission is subject to the further condition that, on the day on which the application was received by the Minister of National Revenue:

(a) that Minister was permitted pursuant to the *Income Tax Act* (Canada) to make an assessment or reassessment of tax payable by the taxpayer for the taxation year;

(b) an objection or appeal by the taxpayer pursuant section 165, 169 or 172 of the *Income Tax Act* (Canada) against an assessment or a reassessment for the taxation year was outstanding or could still have been made or instituted; or

(c) a complaint made in writing by the taxpayer to the Canadian Human Rights Commission at a time when clause (a) or (b) applied with respect to the taxation year was outstanding concerning the non-deductibility in the taxation year of an allowance mentioned in subsection 3(1).

(3) Where the taxpayer makes or made the application mentioned in subsection (1) after December 31, 1991 for remission for a taxation year, the remission is subject to the further condition that, on December 31, 1991:

(a) an objection or appeal by the taxpayer pursuant section 165, 169 or 172 of the *Income Tax Act* (Canada) against an assessment or a reassessment for the taxation year was outstanding; or

(b) a complaint made in writing by the taxpayer to the Canadian Human Rights Commission at a time when clause (2)(a) or (b) applied with respect to the taxation year was outstanding concerning the non-deductibility in the taxation year of an allowance mentioned in subsection 3(1).

15 Sep 95 cF-13.4 Reg 9 s4.

Actions to be discontinued

5 The remission granted pursuant to section 3 to a taxpayer for a taxation year is subject to the further conditions that:

(a) within 45 days after the day of mailing to the taxpayer of a notice from the Department of National Revenue, Taxation setting out the amount eligible to be remitted to the taxpayer pursuant to these regulations, the taxpayer discontinue any outstanding action commenced by the taxpayer in any court by which the taxpayer seeks a reduction in the amount of, or any other relief or remedy relating to, taxes payable by the taxpayer for that taxation year with respect to the deductibility, in computing the taxpayer's income for that taxation year, of an allowance mentioned in subsection 3(1);

(b) within 45 days after the day of mailing to the taxpayer of a notice from the Department of National Revenue, Taxation setting out the amount eligible to be remitted to the taxpayer pursuant to these regulations, the taxpayer withdraw any outstanding objection served on the Minister of National Revenue, any claim filed in any court, and any complaint made to any tribunal by which the taxpayer seeks a reduction in the amount of, or any other relief or remedy relating to, taxes payable by the taxpayer for that taxation year with respect to the deductibility, in computing the taxpayer's income for that taxation year, of an allowance mentioned in subsection 3(1); and

MAINTENANCE PAYMENTS REMISSION

F-13.4 REG 9

(c) the taxpayer does not commence or make any action, claim or objection to the Minister of National Revenue or any court or make any complaint to any tribunal by which the taxpayer seeks a reduction in the amount of, or any other relief or remedy relating to, taxes payable by the taxpayer for that taxation year with respect to the deductibility in computing the taxpayer's income for that taxation year of an allowance mentioned in subsection 3(1).

15 Sep 95 cF-13.4 Reg 9 s5.

