



NO.: **IT-337R4 (Consolidated)**

DATE: February 1, 2006

SUBJECT: INCOME TAX ACT
Retiring Allowances

REFERENCE: Paragraph 60(j.1), subparagraph 56(1)(a)(ii) and the definition of “retiring allowance” in subsection 248(1) (also subsection 70(2), paragraphs 6(3)(b), 56(1)(l.1), 60(o.1), 153(1)(c) and 212(1)(j.1))

Latest Revisions — ¶ 8 and ¶ 26

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Bulletin Revisions

Application

This bulletin is a consolidation of the following:

- IT-337R4 dated October 21, 2003; and
- subsequent amendments thereto.

For further particulars, see the “*Bulletin Revisions*” section at the end of this bulletin. Also, the effective date of a particular legislative provision discussed in the bulletin may be indicated in the *Bulletin Revisions* section (or, in some cases, in the *Discussion and Interpretation* section) of the bulletin. However, where the bulletin is silent with respect to the effective date of a particular provision, such date can be obtained from the legislation itself. Unless otherwise stated, all statutory references throughout the bulletin are to the *Income Tax Act* (the “Act”).

Summary

A retiring allowance is an amount received on or after the retirement of an employee in recognition of long service or in respect of a loss of an office or employment. The amount, which may be paid by instalments, may be received by the former employee, or after his or her death, by a dependant or a relation or by the former employee's legal representative. The amount is included in income as it is received.

Paragraph 60(j.1) permits a taxpayer who has received a retiring allowance to defer payment of some or all of the income tax on the amount received by making a payment to a registered pension plan (RPP) or to a registered retirement savings plan (RRSP) under which the taxpayer is the annuitant. The amount that can be transferred is determined in part by reference to the number of years of employment before 1996 with the employer who made the payment or with a person related to the employer.

This bulletin describes what is meant by a retiring allowance, the taxation thereof and the circumstances under which a retiring allowance may be transferred without immediate tax consequences to an RPP or to an RRSP under which the recipient is the annuitant.

Discussion and Interpretation

Introduction

¶ 1. An amount received by a former employee arising out of or in consequence of the cessation of employment is considered income from that employment under either subsection 5(1) alone or together with paragraph 6(3)(b) (see the current version of IT-196, *Payments by Employer to Employee*), or as a retiring allowance under subparagraph 56(1)(a)(ii). Subject to the comments below, the cessation of employment for any reason is considered as being retirement or loss of employment.

¶ 2. "Retiring allowance" is defined in subsection 248(1) to mean an amount received

- (a) on or after retirement of a taxpayer from an office or employment in recognition of the taxpayer's long service, or
- (b) in respect of a loss of office or employment of a taxpayer, whether or not received as, on account or in lieu of payment of, damages or pursuant to an order or judgment of a competent tribunal,

by the taxpayer or, after the taxpayer's death, by a dependant or a relation of the taxpayer or by the legal representative of the taxpayer.

Meaning of Retirement and Loss of Office or Employment

Retirement

¶ 3. To qualify as a retiring allowance, a payment must be in recognition of long service or in respect of loss of an office or employment. The term "long service" is usually

considered to have reference to the total number of years in an employee's career with a particular employer or with affiliated employers. A payment for unused sick leave credits qualifies as a retiring allowance (see *J. Camille Harel v. The Deputy Minister of Revenue of the Province of Quebec* (77 DTC 5438, [1977] CTC 441)).

¶ 4. Whether an individual has retired is a question of fact. Continued participation in a former employer's health plan (for example, providing medical, dental and long term disability coverage) for a restricted period of time would not, in itself, indicate that employment has not terminated, particularly if the employer's plan specifically permits former employees to be covered under the plan. However, if pension benefits continue to accrue to the individual, the accrual indicates that there is an existing employment relationship, since such benefits only accrue to employees. The fact that the employer does not require an individual to report to work is not, by itself, determinative of whether the individual has retired. For example, an individual who has been given a leave of absence for educational purposes is still an employee.

Loss of Office or Employment

¶ 5. A retiring allowance includes an amount received in respect of a loss of office or employment. In this context, the words "in respect of" have been held by the Courts to imply a connection between the loss of employment and the subsequent receipt, where the primary purpose of the receipt was compensation for the loss of employment. (See also ¶ 11) Two questions set out by the Courts to determine whether a connection exists for purposes of a retiring allowance are as follows:

1 – But for the loss of employment would the amount have been received? and,

2 – Was the purpose of the payment to compensate a loss of employment?

Only if the answer to the first question is "no" **and** the answer to the second question is "yes", will the amount received be considered a retiring allowance.

¶ 6. A loss of office or employment usually refers to the elimination or expiration of a particular office or employment, for example, the abolition of a job or position for economic reasons or as the consequence of an employer's withdrawal from a particular business. However, a loss of office or employment may also refer to the loss of an income source of an employee who is released from an office or employment whether unilaterally or not. Since "early retirement incentive plans" are essentially designed to eliminate a number of office or employment positions (albeit on an elective basis), payments made upon such "retirements" are generally considered as being for a loss of office or employment.

Timing

¶ 7. Where an individual continues to accrue salary and benefits until a date that is subsequent to the date the individual ceases to report to work, the retirement or the loss of office or employment, as the case may be, will be considered to take place only at the later date. However, this does not preclude the payment of a retiring allowance before a loss of office or employment occurs. Unlike the requirement in the definition of retiring allowance that payments in recognition of long service be made on or after a retirement, payments in respect of the loss of an office or employment are not required to be made on or after the individual's loss of an office or employment.

If it can be shown that a payment is in respect of a loss of an office or employment, the payment will constitute a retiring allowance regardless of the fact that the individual's loss of office or employment may occur subsequent to the receipt of such payment. For a payment in advance of the loss of an office or employment to be considered a retiring allowance, there must be evidence that the loss is not speculative or contingent, and that the severing of the employment relationship, including the cessation of all employment benefits, will occur on a specific date. This would be the case where an employee is paid an amount on being advised that his or her employment is to be terminated on a specific date (within a reasonable time frame) and the employee continues to work until the termination date.

Exceptions

¶ 8. Retirement or loss of an office or employment does not include:

- (a) a transfer from one office or position to another with the same employer (or an affiliate), in a different capacity (including one with diminished responsibilities or where full-time employees become part-time employees in the same or different business location as part of a reorganization of an employer's business).

However, a termination of employment which otherwise qualifies as a retirement or loss of office will not be excluded solely because a taxpayer continues as a corporate director (other than a director of a public company) at nominal compensation. Similarly, where after the sale of the employer's active business an individual carries on certain administrative duties for the former employer for which no remuneration or director's fees are received, the individual may still be considered to have retired or lost an office or employment. Such administrative duties include collecting rents, hiring trades for general maintenance of a building, day-to-day banking and general bookkeeping.

- (b) termination of employment with an employer followed by:
- re-employment with the employer (on a full or part-time basis) or

- employment with an affiliate of the employer pursuant to an arrangement made prior to the termination of employment.

While generally applicable in most situations, there may be rare circumstances where this exception may not apply. As an example, consider a situation where an employee of a government department, prior to his or her retirement from a full-time position after many years of service, obtains through his or her own volition, part-time employment with another department of the same government under the following conditions:

- the duties and responsibilities of the new part-time position are different and unrelated to those of the former position held;
- benefits relating to the former full-time position are not transferable or recognized with respect to the new part-time position;
- the employee is entitled to a pension based only on the full-time position and is unable to accrue further benefits under the pension plan with respect to the part-time employment; and
- the retiring employee found the new position through his or her own efforts without the knowledge or involvement of the former government department.

In this particular situation, a severance allowance received by the employee could be considered to have been received in respect of a retirement or loss of an office or employment for purposes of the definition of a retiring allowance. Whether a particular re-employment falls within this exception will be determined by the Canada Revenue Agency (CRA) on a case-by-case basis, by either the tax services office in situations where the amount has already been received by the employee or, alternatively through a joint application by the employer and employee to the Income Tax Rulings Directorate, if the amount will be received by the employee in the future. For purposes of a joint application to the Income Tax Ruling Directorate in the form of an advance income tax ruling, please refer to the current version of Information Circular 70-6, *Advance Income Tax Rulings* for further information.

The word "affiliate," as used in (a) and (b) above and throughout this bulletin, includes any related or associated corporation, or any corporation that is a member of a group of corporations that do not deal at arm's length, notwithstanding that they may not be related or associated for the purposes of the Act. An "affiliate" does not include a person who would not otherwise be related or considered affiliated but for the definition of "person related to the employer" contained in subparagraph 60(j.1)(iv) (see ¶ 22(b)).

Types of Receipts

Damages

¶ 9. Generally, compensation received by an individual from the individual's employer or former employer on

account of damages may be employment income, a retiring allowance, non-taxable damages, or a combination thereof. Such a determination is a question of fact, which requires a review of all relevant facts and documentation of each particular case.

¶ 10. Special damages, such as those received for lost (unearned) wages or employee benefits, are taxable as employment income if the employee retains his or her employment or is reinstated.

¶ 11. The definition of a retiring allowance includes an amount received in respect of a loss of office or employment of a taxpayer, whether or not received as, on account or in lieu of payment of, damages or pursuant to an order or judgment of a competent tribunal. As discussed in ¶ 5, the words “in respect of” denote a connection between the loss of employment and the subsequent receipt. Accordingly, where an individual receives compensation on account of damages as a result of a loss of employment, the amount received will be taxed as a retiring allowance. This applies to both special damages, as well as general damages received for loss of self-respect, humiliation, mental anguish, hurt feelings, etc.

¶ 12. Where personal injuries have been sustained before or after the loss of employment (for example, in situations of harassment during employment, or defamation after dismissal), the general damages received in respect of these injuries may be viewed as unrelated to the loss of employment and therefore non-taxable. In order to claim that damages received upon loss of employment are for personal injuries unrelated to the loss of employment, it must be clearly demonstrated that the damages relate to events or actions separate from the loss of employment. In making such a determination, the amount of severance that the employee would reasonably be entitled to will be taken into consideration.

Similarly, general damages relating to human rights violations can be considered unrelated to a loss of employment, despite the fact that the loss of employment is often a direct result of a human rights violations complaint. If a human rights tribunal awards a taxpayer an amount for general damages, the amount is normally not required to be included in income. When a loss of employment involves a human rights violation and is settled out of court, a reasonable amount in respect of general damages can be excluded from income. The determination of what is reasonable is influenced by the maximum amount that can be awarded under the applicable human rights legislation and the evidence presented in the case. Any excess will be taxed as a retiring allowance.

Dual Nature Receipts

¶ 13. The payment of an amount pursuant to a contractual obligation may, in some cases, be treated as a retiring allowance. A payment received upon or after retirement or in respect of a loss of employment pursuant to the terms of an

employment contract with a former employer is generally viewed as remuneration from the former office or employment. However, in circumstances where the payment can also reasonably be regarded as being in recognition of long service or as compensation for loss of office (see also ¶ 6) it is considered to be a retiring allowance.

¶ 14. Payments in lieu of earnings for a period of reasonable notice of termination by virtue of the terms of the taxpayer’s employment (explicit or implied) are considered income from employment. However, where a payment of damages arising from the loss of office or employment includes an amount in respect of the period of reasonable notice, this amount will be considered a retiring allowance.

Non-Qualifying Receipts

¶ 15. The following amounts are not considered retiring allowances:

- a superannuation or pension benefit (see the current version of IT-499, *Superannuation or Pension Benefits*);
- an amount received as a consequence of the death of an employee (see the current version of IT-508, *Death Benefits*);
- a benefit from counselling services described in subparagraph 6(1)(a)(iv);
- salary and/or wages;
- accrued vacation pay;
- an amount received out of or under an employee benefit plan or a salary deferral arrangement;
- a reimbursement of legal costs (see ¶ 23);
- a retention bonus for reporting to work until the termination date; and
- an amount received upon or after retirement where a low (or no) salary was received before retirement. Such an amount is more likely to be regarded as deferred compensation, taxable as income from office or employment when received rather than as a retiring allowance.

Tax Implications to Recipient

Income Inclusion

¶ 16. Under subparagraph 56(1)(a)(ii), retiring allowances are included in computing the income of a taxpayer as they are received. If an individual has received a greater retiring allowance than the individual is entitled to and repays the overpayment, the individual may deduct, under subparagraph 60(n)(i.1), the amount repaid in the year of the repayment.

A retiring allowance may also be received out of a retirement compensation arrangement (RCA); however, the amount is included in income under paragraph 56(1)(x).

¶ 17. In programs designed to encourage voluntary retirements, an employer may offer eligible employees the option of receiving an amount either as a lump sum at the

time of termination or in instalments over a number of years. If an employee receives an amount that is a retiring allowance from the program and the employee chooses the instalment option on or before the employment is terminated, the instalments are taxable in the year received. Retiring allowance treatment will be denied, however, if an employer treats the instalments as income from employment for the purposes of computing Employment Insurance premiums and benefits, Canada Pension Plan accruals or eligible years of service under a registered pension plan.

Some or all of each retiring allowance instalment may be transferred to the recipient's RPP or RRSP under paragraph 60(j.1) to the maximum allowed by that paragraph (see ¶s 19-22). If the instalments reflect an amount of interest income earned on the outstanding balance of a retiring allowance, the interest income is not itself a retiring allowance and cannot be used to increase the amount eligible for deduction under paragraph 60(j.1).

¶ 18. An amount paid in respect of a retiring allowance of an officer or employee constitutes income of the officer or employee during his or her lifetime, regardless of who actually receives the payment. However, should an individual die prior to receiving all of a retiring allowance to which the individual was entitled, any subsequent payments in respect of the retiring allowance made to a dependant, relation or to the individual's estate will normally be included in the recipient's income as a retiring allowance pursuant to subparagraph 56(1)(a)(ii). As an alternative, the value of any retiring allowance yet to be received at the time of death may be included in the retired employee's income for the taxation year of death as a "right or thing" pursuant to subsection 70(2) (for information on "rights or things," see the current version of IT-212, *Income of Deceased Persons – Rights or Things*). An exception to the taxation of the immediate recipient of a retiring allowance is provided in subsection 104(28), whereby such an amount or portion thereof received by a testamentary trust (in the person of the deceased's legal representative) is deemed not to have been received by the trust but by the beneficiary to whom it may reasonably be considered to be paid or payable.

If an officer or employee retires and then dies before receiving all or any part of a retiring allowance to which he or she was entitled, the amount received after death does not convert into a death benefit by reason of the death. However, if an employee dies while still employed and either the employee was contractually entitled to receive a retiring allowance or the employer decides to pay an amount in recognition of the employee's long service to the employee's estate, the amount received after death in this case would be treated as a death benefit.

Transfers to a Registered Retirement Savings Plan or Registered Pension Plan

¶ 19. Paragraph 60(j.1) provides for a deduction for all or part of a retiring allowance included in a taxpayer's income and transferred to an RPP or to an RRSP under which the

taxpayer is the annuitant. Transfers to an RPP however, may have certain adverse implications with respect to the taxpayer's "pension adjustment", which should be considered in advance of the transfer (see the current version of IT-124, *Contributions to Registered Retirement Savings Plan*). In addition, the amount must be paid by an employer or under an RCA to which the employer has contributed.

In general terms, the deduction under paragraph 60(j.1) is limited to the least of:

- (a) the amount of retiring allowance included in income for the year ;
- (b) the eligible portion of the retiring allowance (see ¶ 20), less all amounts deducted under paragraph 60(j.1) in respect of retiring allowances paid by the employer in a previous year or paid by a person related to the employer in the current or a previous year; and
- (c) the total of all amounts paid by the taxpayer in the year or within 60 days after the end of the year,
 - (i) to an RPP (other than any portion thereof deductible either for current or past service contributions or as a transfer of superannuation benefits); or
 - (ii) to the taxpayer's own RRSP (other than any portion thereof that has been designated as a transfer of superannuation benefits or as a refund of premiums under an RRSP)

to the extent such amounts were not deducted in computing income for a preceding taxation year.

¶ 20. The eligible portion of a retiring allowance, for the purpose of ¶ 19(b), is computed as the sum of:

- (a) \$2,000 times the number of years (see ¶ 22(a)) before 1996 during which the employee or former employee (referred to hereafter as the "retiree") was employed by the employer or a person related to the employer (see ¶ 22(b)); and
- (b) \$1,500 times the number of years that is equal to:
 - (i) the number of years before 1989 during which the retiree was employed by the employer or a person related to the employer
 less
 - (ii) the equivalent number of years (see ¶ 22(c)) before 1989 in respect of which employer contributions to a pension plan (see ¶ 22(d)) or deferred profit sharing plan had vested in the retiree at the time the retiring allowance is paid (see ¶ 22(e)).

¶ 21. As mentioned in ¶ 19(c)(ii), the eligible portion of a retiring allowance may only be transferred to an RRSP under which the recipient is the annuitant. However, if the recipient has unused RRSP deduction room, an amount received as a retiring allowance may be contributed to either the recipient's RRSP or to a spousal or common-law partner RRSP, up to a maximum of that room. For more information,

see the current version of the guide entitled *RRSPs and Other Registered Plans for Retirement*.

Example

Mr. A was employed from October 1985 to June 2000 when he retired. In recognition of his long service, Mr. A was entitled to a retiring allowance on his retirement of \$30,000 which he chose, in advance, to receive in two annual instalments of \$15,000 in each of 2000 and 2001.

His employer made RPP contributions on Mr. A's behalf starting in 1987. Mr. A's RPP contribution and deduction for 2000 was \$3,000. In addition, he contributed \$12,000 to his RRSP in 2000 and \$15,000 in 2001.

The amount deductible by Mr. A under paragraph 60(j.1) in 2000 and 2001 is limited to the lesser of (a), (b) and (c) as follows:

	2000	2001
(a) Retiring allowance included in income	<u>\$ 15 000</u>	<u>\$ 15 000</u>
(b) Eligible portion of retiring allowance		
(i) \$2,000 x 11 years (1985 to 1995 inclusive ¹)	\$ 22,000	
(ii) \$1,500 x (4 years – 2 years)	<u>3,000</u>	\$25,000
Less: 60(j.1) deduction in previous years	<u>NIL</u>	<u>12,000</u>
	<u>\$25,000</u>	<u>\$13,000</u>
(c) Total of:		
(i) RPP contributions	\$ 3,000	NIL
Less: RPP deduction for current service	<u>(3,000)</u>	
	NIL	
(ii) RRSP contributions	<u>\$12,000</u>	<u>\$15,000</u>
	<u>\$12,000</u>	<u>\$15,000</u>

¹ While there are 16 years between 1985 and 2000, it is the number of years before 1996 that are relevant in this calculation.

Accordingly, Mr. A's maximum designated amount under paragraph 60(j.1) is \$12,000 for 2000 and \$13,000 for 2001.

¶ 22. For purposes of ¶ 20:

- (a) The number of years of employment need not be continuous and there is no restriction on the length of a break between periods of service. The number of years during which the retiree was employed includes a part of a year as one year. However, if an employee is employed for part of a year by an employer and by a person related to the employer for part of the same year, then the two parts of the year would only count as one year.
- (b) A person related to the employer includes not only those persons related under section 251 (see the current version of IT-419, *Meaning of Arm's Length*) but also includes, by virtue of subparagraphs 60(j.1)(iv) and (v),
 - (i) any person whose business was acquired or continued by the employer, and

- (ii) any previous employer of the retiree whose service therewith is recognized in determining the retiree's pension benefits.

With respect to 22(b)(ii), where the employer's pension plan recognizes any part of the years of service with a former employer, then all of the years of service with the former employer can be included in the total number of years described in ¶ 20(a).

- (c) The "equivalent number of years" of vesting for purposes of determining whether the additional \$1,500 is available for particular years before 1989 is determined by reference to the terms of the particular pension or deferred profit sharing plan and can be a fractional number of years. For example, if an employee had worked during eight calendar years for an employer, the employer had made contributions for seven of those years, and at the time of his retirement, 60% of employer contributions have vested, the equivalent number of years before 1989 which must be deducted under ¶ 20(b)(ii) from the total number of years of service before 1989 will be 4.2 (which is 60% of 7). While the number used in the calculation of the equivalent number of years may be a fraction, the number of years for which an employer has made contributions cannot.
- (d) The pension plan may be registered or non-registered. If an employee buys back years of service under a pension plan and pays both the employee's and the employer's share of contributions, those years are considered to be years in which the employer made contributions to the plan that have vested to the credit of the employee and consequently the additional \$1,500 referred to in ¶ 20(b) would not be available for those years of service.
- (e) Contributions to a plan have vested in a retiree when the retiring allowance is paid if the retiree at the time the retiring allowance is paid is entitled to either a pension or a lump sum amount from the plan, which includes the employer's contributions.

Legal Costs

¶ 23. Amounts received as an award or reimbursement of legal expenses paid by a taxpayer to collect or establish a right to a retiring allowance are required to be included in the taxpayer's income under paragraph 56(1)(l.1). Eligible legal expenses paid by a taxpayer to collect or establish a right to a retiring allowance (including a right to damages for wrongful dismissal) may be deducted under paragraph 60(o.1).

The amount of the deduction in the year is limited to the total of

- any reimbursement of legal expenses included in income in the year or a preceding taxation year and
- the amount of the retiring allowance received and included in income in the year or a preceding taxation year less any portion thereof that has been transferred to an RPP or an RRSP and deducted under paragraph 60(j.1).

Any non-deductible portion of eligible legal expenses may be carried forward and deducted in any of the seven subsequent taxation years, to the extent the taxpayer receives a further retiring allowance. For a further discussion of the deductibility of legal fees, reference should be made to the current version of IT-99, *Legal and Accounting Fees*.

Tax Implications to Payer

Deductibility

¶ 24. To be considered a deductible outlay to the payer (which is normally the employer) for purposes of computing income under subsection 9(1) of the Act, a retiring allowance must, by virtue of section 67, be reasonable in the circumstances. In determining reasonableness, particular regard will be given to the length of service involved, its relationship to the remuneration received for those years of service, and the value of pension and other retirement benefits to which the retiree is entitled in respect of that service. An advance income tax ruling may be requested to determine if a proposed payment will be accepted as being “reasonable in the circumstances” from the payer’s point of view. For full-time employees, the amount eligible for rollover under paragraph 60(j.1) will be accepted as “reasonable in the circumstances” or such greater amount as may be reasonable taking into account the circumstances described above.

Although an advance income tax ruling may be issued to an employee concerning whether an amount is a “retiring allowance,” generally no assurance will be given concerning whether a specific amount can be deducted under paragraph 60(j.1). The current version of Information Circular 70-6, *Advance Income Tax Rulings*, provides that rulings may be refused when the question concerns tax-related calculations.

Withholding Requirements

¶ 25. Subject to ¶ 26, a person paying a retiring allowance to a recipient is required, pursuant to paragraph 153(1)(c), to withhold tax therefrom in such amount as is prescribed by Regulation. However, the payer is not required to deduct

income tax on the amount of retiring allowance transferred directly to the recipient’s RPP. If the retiring allowance or a part thereof is paid directly to an RRSP (see ¶s 19 and 21), there is no requirement for the payer to withhold income tax on the transferred amount if the payer has reasonable grounds to believe the transfer is within the deduction limits under paragraph 60(j.1) or can be deducted pursuant to subsections 146(5) or (5.1). For more information, see the current version of the guide entitled *Employers’ Guide: Payroll Deductions (Basic Information)*.

¶ 26. A person paying a retiring allowance to a non-resident person is normally required, by virtue of paragraph 212(1)(j.1), to withhold 25% of the retiring allowance and to forward this amount to the Receiver General on behalf of the non-resident. However, the withholding tax may be waived, provided that the amount:

- is paid directly to an RPP or an RRSP under which the non-resident person is the annuitant,
- does not exceed the maximum amount that would have been deductible under paragraph 60(j.1), had the non-resident been resident in Canada, and
- is an amount which would have been included in income under subparagraph 56(1)(a)(ii), had the non-resident been resident in Canada.

Such a waiver may be obtained by completing Form NRTA1, *Authorization for Non-Resident Tax Exemption*. The rate of withholding may also be reduced by a provision of a tax treaty.

It may be beneficial for a non-resident to elect under section 217 to pay tax on the retiring allowance at the normal individual Canadian rates (see the current version of IT-163, *Election by Non-Resident Individuals on Certain Canadian Source Income*). To benefit from reduced withholding, the non-resident should file Form NR5, *Application by a Non-Resident of Canada for a Reduction in the Amount of Non-Resident Tax Required to Be Withheld*. If the application is approved by the CRA, the Canadian payer will be authorized to reduce the amount of non-resident tax withheld on the retiring allowance.

Bulletin Revisions

¶s 1 to 7 and ¶s 9 to 25 have not changed since the issuance of IT-337R4 dated October 21, 2003.

¶ 8 has been revised to clarify the exception mentioned with respect to the termination of employment with an employer followed by the re-employment with the same employer, or an affiliated employer, pursuant to an

arrangement made prior to the termination of employment. Further, ¶ 8 now emphasizes that any determination will require a review of the facts on a case-by-case basis.
[February 1, 2006]

¶ 26 has been updated to reflect the name change of the Agency from the Canada Customs and Revenue Agency (CCRA) to the Canada Revenue Agency (CRA).
[February 1, 2006]