

Income Tax Act

1 (1) Section 153 of the *Income Tax Act* is amended by adding the following after subsection (3):

Amounts paid in error

(3.1) For the purposes of the Act, an amount (referred to in this subsection as the “excess amount”) is deemed to not have been deducted or withheld under subsection (1) by a person if

- (a)** the excess amount was, absent the application of this subsection, deducted or withheld by the person under subsection (1);
- (b)** the excess amount is in respect of an excess payment (referred to in this subsection as the “total excess payment”) of an individual’s salary, wages or other remuneration by the person to the individual in a particular year, that was paid as a result of a clerical, administrative or system error;
- (c)** before the end of the third year after the calendar year in which the excess amount is deducted or withheld,
 - (i)** the person elects in prescribed manner to have this subsection apply in respect of the excess amount, and
 - (ii)** the individual has repaid, or made an arrangement to repay, the total excess payment less the excess amount;
- (d)** an information return correcting for the total excess payment has not been issued by the person to the individual prior to the making of the election in subparagraph (c)(i); and
- (e)** any additional conditions specified by the Minister have been met.

(2) Subsection (1) applies in respect of excess payments of salary, wages or other remuneration made after 2015.

Canada Pension Plan

2 The *Canada Pension Plan* is amended by adding the following after section 21:

Excess payment — amount deemed not deducted

21.01 (1) Subject to subsection (2), an amount deducted by an employer under subsection 21(1) for a year after 2015 in respect of an excess payment that was paid — as a result of a clerical, administrative or system error — as remuneration to an employee in respect of pensionable employment is deemed not to have been deducted for the purposes of this Act if

- (a)** before the end of the third year after the calendar year in which the amount was deducted,
 - (i)** the employer elects to have this section apply in respect of the amount, and
 - (ii)** the employee has repaid, or made an arrangement to repay, the employer;
- (b)** the employer has not filed an information return correcting for the excess payment before making the election referred to in subparagraph (a)(i); and
- (c)** any additional conditions specified by the Minister are met.

Determination of amount

(2) For the purposes of subsection (1), the amount that is deemed not to have been deducted is the amount that was deducted by the employer or, if the amount determined by the following formula is less than the amount that was deducted by the employer, the amount determined by the formula

$$A - B$$

where

A is the aggregate of all amounts that were deducted by the employer as the employee's contributions for the year in question; and

B is the aggregate of all amounts that would have been deducted by the employer as the employee's contributions for that year had the employer not made the excess payment referred to in subsection (1).

3 (1) Section 38 of the Act is amended by adding the following after subsection (3.2):

Refund — section 21.01 amounts

(3.3) If an amount remitted by an employer is deemed under section 21.01 not to have been deducted, the Minister may refund that amount to the employer if the employer applies to the Minister for the refund within four years after the end of the year for which the amount was remitted.

(2) Section 38 of the Act is amended by adding the following after subsection (7):

Non-application — subsection (7)

(8) Subsection (7) does not apply in respect of an amount referred to in subsection (3.3) that is refunded or applied under this Act to any other liability.

Employment Insurance Act

4 The *Employment Insurance Act* is amended by adding the following after subsection 82:

Excess payment — amount deemed not deducted

82.01 (1) Subject to subsection (2), an amount deducted by an employer under subsection 82(1) for a year after 2015 in respect of an excess payment that was paid — as a result of a clerical, administrative or system error — as remuneration to an insured person is deemed not to have been deducted for the purposes of this Act if

(a) before the end of the third year after the calendar year in which the amount was deducted,

(i) the employer elects to have this section apply in respect of the amount, and

(ii) the insured person has repaid, or made an arrangement to repay, the employer;

(b) the employer has not filed an information return correcting for the excess payment before making the election referred to in subparagraph (a)(i); and

(c) any additional conditions specified by the Minister are met.

Determination of amount

(2) For the purposes of subsection (1), the amount that is deemed not to have been deducted is the amount that was deducted by the employer or, if the amount determined by the following formula is less than the amount that was deducted by the employer, the amount determined by the formula

$$A - B$$

where

A is the aggregate of all amounts that were deducted by the employer as the employee's premiums for the year in question; and

B is the aggregate of all amounts that would have been deducted by the employer as the employee's premiums for that year had the employer not made the excess payment referred to in subsection (1).

5 (1) Section 96 of the Act is amended by adding the following after subsection (3):

Refund — section 82.01 amounts

(3.1) If an amount remitted by an employer is deemed under section 82.01 not to have been deducted, the Minister may refund that amount to the employer if the employer applies to the Minister for the refund within three years after the end of the year for which the amount was remitted.

(2) Section 96 of the Act is amended by adding the following after subsection (13):

Non-application — subsection (13)

(13.01) Subsection (13) does not apply in respect of an amount referred to in subsection (3.1) that is refunded or applied under this Act to any other liability.

Coming into Force

Non-application — subsection 114(2) of *Canada Pension Plan*

6 (1) Subsection 114(2) of the *Canada Pension Plan* does not apply in respect of the amendments to that Act contained in sections 2 and 3 of this Act.

Order in council

(2) Sections 2 and 3 come into force, in accordance with subsection 114(4) of the *Canada Pension Plan*, on a day to be fixed by order of the Governor in Council.