

Human Resources Legislative Update

New Federal Graduated Late-Filing Penalty for Certain Employment-Related Tax Filings

Date: November 22, 2013

On November 20, 2013, the federal government registered [Regulations Amending the Income Tax Regulations \(Late Filing Penalty – Prescribed Information Returns\)](#). The regulatory amendment relates to the government's Budget 2009 and subsequent legislative initiative (via *Budget Implementation Act, 2009* amendments) to provide for a "separate, less severe, graduated penalty that would be applicable where 'prescribed' information returns were filed late." These Regulations add a subsection to section 205 of the *Income Tax Regulations* prescribing T4s, T4As and certain pension and benefits and retirement-related information returns (among other types of information) that will be subject to a graduated late-filing penalty, retroactive to January 1, 2012.

Previously, the failure to file any type of information return (including a T4) would result in a penalty of \$25 per day for each day up to 100 days per information return, with a minimum \$100 penalty under [s.162\(7\) of the Income Tax Act](#). For example, if an employer was late one day for 500 employees' T4s, the penalty would have been \$50,000. The new graduated penalty structure in s.162(7.01) is now applicable to certain types of information returns, including T4s, T4As, NR4s and various pension-related information returns (PARs, PSPAs exempt from certification), and applies a single penalty amount based on the total number of information returns that are not filed on time. If an employer is late one day for 500 employees' T4s, the penalty would be \$100.

Administrative waivers of the severe s.162(7) penalties have been provided since 2010. With the registration of these Regulations, the graduated penalties will now apply on a uniform basis without the need for Ministerial consent.