Act current to 2026-07-21 and on 2026-06-18.

Repeated failure to report income

163 (1) Every person is liable to a penalty who

(a) fails to report an amount, equal to or greater than $500, required to be included in computing the person’s income in a return filed under section 150 for a taxation year (in this subsection and subsection (1.1) referred to as the ***unreported amount***);

(b) had failed to report an amount, equal to or greater than $500, required to be included in computing the person’s income in any return filed under section 150 for any of the three preceding taxation years; and

(c) is not liable to a penalty under subsection (2) in respect of the unreported amount.

Amount of penalty

(1.1) The amount of the penalty to which the person is liable under subsection (1) is equal to the lesser of

(a) 10% of the unreported amount, and

(b) the amount determined by the formula

$$\mathbf{0.5 \times (A - B)}$$

where

A is the total of the amounts that would be determined under paragraphs (2)(a) to (g) if subsection (2) applied in respect of the unreported amount, and

B is any amount deducted or withheld under subsection 153(1) that may reasonably be considered to be in respect of the unreported amount.

False statements or omissions

(2) Every person who, knowingly, or under circumstances amounting to gross negligence, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a return, form, certificate, statement or answer (in this section referred to as a "return") filed or made in respect of a taxation year for the purposes of this Act, is liable to a penalty of the greater of $100 and 50% of the total of

(a) the amount, if any, by which

(i) the amount, if any, by which

(A) the tax for the year that would be payable by the person under this Act

exceeds

(B) the amounts that would be deemed by subsections 120(2) and (2.2) to have been paid on account of the person's tax for the year

if the person's taxable income for the year were computed by adding to the taxable income reported by the person in the person's return for the year that portion of the person's understatement of income for the year that is reasonably attributable to the false statement or omission and if the person's tax payable for the year were computed by subtracting from the deductions from the tax otherwise payable by the person for the year such portion of any such deduction as may reasonably be attributable to the false statement or omission

exceeds

(ii) the amount, if any, by which

(A) the tax for the year that would have been payable by the person under this Act

exceeds

(B) the amounts that would be deemed by subsections 120(2) and (2.2) to have been paid on account of the person’s tax for the year

had the person’s tax payable for the year been assessed on the basis of the information provided in the person’s return for the year,

(b) [Repealed, 1994, c. 7, Sch. VII, s. 17]

(c) the total of all amounts each of which is the amount, if any, by which

(i) the amount that would be deemed by subsection 122.61(1) to be an overpayment on account of the person’s liability under this Part for the year that arose during a particular month or, where that person is a cohabiting spouse or common-law partner (within the meaning assigned by section 122.6) of an individual at the end of the year and at the beginning of the particular month, of that individual’s liability under this Part for the year that arose during the particular month, as the case may be, if that total were calculated by reference to the information provided

exceeds

(ii) the amount that is deemed by subsection 122.61(1) to be an overpayment on account of the liability of that person or that individual, as the case may be, under this Part for the year that arose during the particular month,

(c.1) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by section 122.5 to be paid by that person during a month specified for the year or, where that person is the qualified relation of an individual in relation to that specified month (within the meaning assigned by subsection 122.5(1)), by that individual, if that total were calculated by reference to the information provided in the person’s return of income (within the meaning assigned by subsection 122.5(1)) for the year

exceeds

(ii) the total of all amounts each of which is an amount that is deemed by section 122.5 to be paid by that person or by an individual of whom the person is the qualified relation in relation to a month specified for the year (within the meaning assigned to subsection 122.5(1)),

(c.2) the amount, if any, by which

(i) the amount that would be deemed under subsection 122.51(2) to be paid on account of the person’s tax payable under this Part for the year if the amount were calculated by reference to the information provided in the return

exceeds

(ii) the amount that is deemed under subsection 122.51(2) to be paid on account of the person’s tax payable under this Part for the year,

(c.3) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by subsection 122.7(2) or (3) to be a payment on account of the person’s tax payable under this Part or another person’s tax payable under this Part for the year if those amounts were calculated by reference to the information provided in the return

exceeds

(ii) the total of all amounts each of which is an amount that is deemed by subsection 122.7(2) or (3) to be a payment on account of the person’s tax payable under this Part and, where applicable, the other person’s tax payable under this Part for the year,

(c.4) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by section 122.8 to be paid by that person during a month specified for the year or, where that person is the *qualified relation* of an individual in relation to that specified month (within the meaning assigned by subsection 122.8(1)), by that individual, if that total were calculated by reference to the information provided in the person’s *return of income* (within the meaning assigned by subsection 122.8(1)) for the year

exceeds

(ii) the total of all amounts each of which is an amount that is deemed by section 122.8 to be paid by that person or by an individual of whom the person is the *qualified relation* in relation to a month specified for the year (within the meaning assigned by subsection 122.8(1)),

(c.5) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by subsection 122.9(2) to have been paid on account of the person's tax payable under this Part for the year if that amount were calculated by reference to the person's claim for the year under the subsection

exceeds

(ii) the total of all amounts each of which is the amount that the person is entitled to claim for the year under subsection 122.9(2),

(c.6) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by subsection 122.91(1) to have been paid on account of the person's tax payable under this Part for the year if those amounts were calculated by reference to the information provided in the return

exceeds

(ii) the total of all amounts each of which is an amount that is deemed by subsection 122.91(1) to be a payment on account of the person's tax payable under this Part for the taxation year,

(c.7) the amount, if any, by which

(i) the amount that would be deemed by subsection 122.93(2) to have been paid for the year by the person if that amount were calculated by reference to the person’s claim for the year under that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person.

(d) the amount, if any, by which

(i) the amount that would be deemed by subsection 127.1(1) to be paid for the year by the person if that amount were calculated by reference to the information provided in the return or form filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person,

(d.1) the amount, if any, by which

(i) the amount that would be deemed by subsection 127.44(2), 127.45(2), 127.48(2), 127.49(2) or 127.491(2), as the case may be, to be paid for the year by the person if that amount were calculated by reference to the information provided in the return or form filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by subsection 127.44(2), 127.45(2), 127.48(2), 127.49(2) or 127.491(2), as the case may be, to be paid for the year by the person,

(e) the amount, if any, by which

(i) the amount that would be deemed by subsection 127.41(3) to have been paid for the year by the person if that amount were calculated by reference to the person’s claim for the year under that subsection

exceeds

(ii) the maximum amount that the person is entitled to claim for the year under subsection 127.41(3),

(f) the amount, if any, by which

(i) the amount that would be deemed by subsection 125.4(3) to have been paid for the year by the person if that amount were calculated by reference to the information provided in the return filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person,

(g) the amount, if any, by which

(i) the amount that would be deemed by subsection 125.5(3) to have been paid for the year by the person if that amount were calculated by reference to the information provided in the return filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person,

(h) the amount, if any, by which

(i) the amount that would be deemed by subsection 125.6(2) or (2.1) to have been paid for the year by the person if that amount were calculated by reference to the information provided in the return filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person, and

(i) the amount, if any, by which

(i) the amount that would be deemed by any of subsections 125.7(2) to (2.2) to have been an overpayment by the person or partnership if that amount were calculated by reference to the information provided in the application filed pursuant to paragraph (a) of the definition *qualifying entity* in subsection 125.7(1), paragraph (a) of the definition *qualifying renter* in subsection 125.7(1) or paragraph (a) of the definition *qualifying recovery entity* in subsection 125.7(1), as the case may be

exceeds

(ii) the amount that is deemed by that subsection to be an overpayment by the person or partnership.

Interpretation

(2.1) For the purposes of subsection 163(2), the taxable income reported by a person in the person's return for a taxation year shall be deemed not to be less than nil and the ***understatement of income*** for a year of a person means the total of

(a) the amount, if any, by which

(i) the total of all amounts that were not reported by the person in the person’s return and that were required to be included in computing the person’s income for the year

exceeds

(ii) the total of such of the amounts deductible by the person in computing the person’s income for the year under the provisions of this Act as were wholly applicable to the amounts referred to in subparagraph 163(2.1)(a)(i) and were not deducted by the person in computing the person’s income for the year reported by the person in the person’s return,

(b) the amount, if any, by which

(i) the total of all amounts deducted by the person in computing the person’s income for the year reported by the person in the person’s return

exceeds

(ii) the total of such of the amounts referred to in subparagraph 163(2.1)(b)(i) as were deductible by the person in computing the person’s income for the year in accordance with the provisions of this Act, and

(c) the amount, if any, by which

(i) the total of all amounts deducted by the person (otherwise than by virtue of section 111) from the person’s income for the purpose of computing the person’s taxable income for the year reported by the person in the person’s return

exceeds

(ii) the total of all amounts deductible by the person (otherwise than by virtue of section 111) from the person's income for the purpose of computing the person's taxable income for the year in accordance with the provisions of this Act.

False statement or omission

(2.2) Every person who, knowingly or under circumstances amounting to gross negligence, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a renunciation that was to have been effective as of a particular date and that is purported to have been made under any of subsections 66(10) to 66(10.3), 66(12.6), 66(12.601) and 66(12.62), otherwise than because of the application of subsection 66(12.66), is liable to a penalty of 25% of the amount, if any, by which

(a) the amount set out in the renunciation in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses

exceeds

(b) the amount in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, that the corporation was entitled under the applicable subsection to renounce as of that particular date.

False statement or omissions with respect to look-back rule

(2.21) A person is liable to the penalty determined under subsection 163(2.22) where the person,

(a) knowingly or under circumstances amounting to gross negligence has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a document required to be filed under subsection 66(12.73) in respect of a renunciation purported to have been made because of the application of subsection 66(12.66); or

(b) fails to file the document on or before the day that is 24 months after the day on or before which it was required to be filed.

Penalty

(2.22) For the purpose of subsection 163(2.21), the penalty to which a person is liable in respect of a document required to be filed under subsection 66(12.73) is equal to 25% of the amount, if any, by which

(a) the portion of the excess referred to in subsection 66(12.73) in respect of the document that was known or that ought to have been known by the person

exceeds

(b) where paragraph 163(2.21)(b) does not apply, the portion of the excess identified in the document, and

(c) in any other case, nil.

Idem

(2.3) Every person who, knowingly or under circumstances amounting to gross negligence, makes or participates in, assents to or acquiesces in the making of, a false statement or omission in a prescribed form required to be filed under subsection 66(12.691) or 66(12.701) is liable to a penalty of 25% of the amount, if any, by which

(a) the assistance required to be reported in respect of a person or partnership in the prescribed form

exceeds

(b) the assistance reported in the prescribed form in respect of the person or partnership.

False statement or omission

(2.4) Every person or partnership who, knowingly or under circumstances amounting to gross negligence, makes or participates in, assents to or acquiesces in, the making of a false statement or omission in a return is liable to a penalty of

(a) where the return is required to be filed under section 233.1, $24,000;

(b) if the return is required to be filed under section 233.2 in respect of a trust, the greater of

(i) $24,000, and

(ii) 5% of the total of all amounts each of which is the fair market value, at the time it was made, of a contribution of the person or partnership made to the trust before the end of the last taxation year of the trust in respect of which the return is required;

(c) where the return is required to be filed under section 233.3 for a taxation year or fiscal period, the greater of

(i) $24,000, and

(ii) 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a specified foreign property (as defined by subsection 233.3(1)(a) of the person or partnership in respect of which the false statement or omission is made;

(d) where the return is required to be filed under section 233.4 for a taxation year or fiscal period, the greater of

(i) $24,000, and

(ii) 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a property of the person or partnership that is a share of the capital stock or indebtedness of the foreign affiliate in respect of which the return is being filed; and

(e) where the return is required to be filed under section 233.6 for a taxation year or fiscal period, the greater of

(i) $2,500, and

(ii) 5% of the total of

(A) all amounts each of which is the fair market value of a property that is distributed to the person or partnership in the year or period by the trust and in respect of which the false statement or omission is made, and

(B) all amounts each of which is the greatest unpaid principal amount of a debt that is owing to the trust by the person or partnership in the year or period and in respect of which the false statement or omission is made.

Application to trust contributions

(2.41) In subparagraph (2.4)(b)(ii), subsections 94(1), (2) and (9) apply.

Shares or debt owned by controlled foreign affiliate

(2.5) For the purpose of paragraph 163(2.4)(d),

(a) shares or indebtedness owned by a controlled foreign affiliate of a person or partnership are deemed to be owned by the person or partnership; and

(b) the cost amount at any time of such shares or indebtedness to the person or partnership is deemed to be equal to 20% of the cost amount at that time to the controlled foreign affiliate of the shares or indebtedness.

Application to partnerships

(2.6) For the purposes of paragraph 163(2.4)(d) and subsection 163(2.5), in determining whether a non-resident corporation or trust is a foreign affiliate or a controlled foreign affiliate of a partnership

(a) the definitions ***direct equity percentage*** and ***equity percentage*** in subsection 95(4) shall be read as if a partnership were a person; and

(b) the definitions ***controlled foreign affiliate*** and ***foreign affiliate*** in subsection 95(1) shall be read as if a partnership were a taxpayer resident in Canada.

Application to partnerships

(2.7) For the purpose of subsection 163(2.4), each act or omission of a member of a partnership in respect of an information return required to be filed by the partnership under section 233.3, 233.4 or 233.6 is deemed to be an act or omission of the partnership in respect of the return.

Application to members of partnerships

(2.8) For the purposes of this subsection and subsection 163(2.7), a person who is a member of a partnership that is a member of another partnership is deemed to be a member of the other partnership.

Partnership liable to penalty

(2.9) If a partnership is liable to a penalty under paragraph (2)(i), subsection (2.4) or (2.901) or section 163.2, 237.1, 237.3 or 237.4, sections 152, 158 to 160.1, 161 and 164 to 167 and Division J apply, with any changes that the circumstances require, in respect of the penalty as if the partnership were a corporation.

Penalty — COVID-19

(2.901) Every eligible entity that is deemed by subsection 125.7(6) to have an amount of qualifying revenue — for a current reference period for a qualifying period — is liable to a penalty equal to 25% of the amount that would be deemed by subsection 125.7(2) or (2.1) to have been an overpayment by the eligible entity during that qualifying period if that amount were calculated by reference to the information provided in the application filed pursuant to paragraph (a) of the definition *qualifying entity* in subsection 125.7(1) or paragraph (a) of the definition *qualifying renter* in subsection 125.7(1), as the case may be.

Penalty — COVID-19

(2.902) Every eligible entity that is deemed by subsection 125.7(6.1) to have an amount of total current period remuneration for a qualifying period is liable to a penalty equal to 25% of the amount that would be deemed by subsection 125.7(2.2) to have been an overpayment by the eligible entity during that qualifying period if that amount were calculated by reference to the information provided in the application filed pursuant to paragraph (a) of the definition *qualifying recovery entity* in subsection 125.7(1).

Application to non-resident trusts

(2.91) For the purposes of this subsection, paragraph 163(2.4)(d) and subsection 163(2.5),

> **(a)** a non-resident trust is deemed to be a controlled foreign affiliate of each beneficiary of which the trust is a controlled foreign affiliate for the purpose of section 233.4;
>
> **(b)** the trust is deemed to be a non-resident corporation having a capital stock of a single class divided into 100 issued shares;
>
> **(c)** each beneficiary under the trust is deemed to own at any time the number of the issued shares of the corporation that is equal to the proportion of 100 that
>
> > **(i)** the fair market value at that time of the beneficiary's beneficial interest in the trust
>
> is of
>
> > **(ii)** the fair market value at that time of all beneficial interests in the trust; and
>
> **(d)** the cost amount to a beneficiary at any time of a share of the corporation is deemed to be equal to the amount determined by the formula

$$\mathbf{A/B}$$

> where

A is the fair market value at that time of the beneficiary’s beneficial interest in the trust, and

B is the number of shares deemed under paragraph 163(2.91)(c) to be owned at that time by the beneficiary in respect of the corporation.

Burden of proof in respect of penalties

(3) Where, in an appeal under this Act, a penalty assessed by the Minister under this section or section 163.2 is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Minister.

Effect of carryback of losses etc.

(4) In determining under subsection 163(2.1) the understatement of income for a taxation year of a person, the following amounts shall be deemed not to be deductible or excludable in computing the person’s income for the year:

(a) any amount that may be deducted under section 41 in respect of the person’s listed-personal-property loss for a subsequent taxation year;

(b) any amount that may be excluded from the person’s income because of section 49 in respect of the exercise of any option in a subsequent taxation year;

(b.1) any amount that may be deducted under subsection 147.2(4) in computing the person’s income for the year because of the application of subsection 147.2(6) as a result of the person’s death in the subsequent taxation year; and

(c) any amount that may be deducted in computing the person’s income for the year because of an election made under paragraph 164(6)(c) or 164(6)(d) in a subsequent taxation year by the person’s legal representative.

False statement or omission

(5) A person or partnership is liable to a penalty if the person or partnership

(a) knowingly or under circumstances amounting to gross negligence

(i) makes — or participates in, assents to or acquiesces in, the making of — a false statement or omission in a return of income of a trust that is not subject to one of the exceptions listed in paragraphs 150(1.2)(a) to (r) for a taxation year, or

(ii) fails to file a return described in subparagraph (i); or

(b) fails to comply with a demand under subsection 150(2) or 231.2(1) to file a return described in subparagraph (a)(i).

False statement or omission — trust return

(6) The amount of the penalty to which the person or partnership is liable under subsection (5) is equal to the greater of

(a) $2,500, and

(b) 5% of the highest amount at any time in the year that is equal to the total fair market value of all the property held by the trust referred to in subsection (5) at that time.

[NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts and regulations.] ; R.S., 1985, c. 1 (5th Supp.), s. 163; 1994, c. 7, Sch. II, s. 135, Sch. VII, s. 17, c. 8, s. 26; 1995, c. 3, s. 48; 1996, c. 21, s. 43; 1997, c. 25, s. 52; 1998, c. 19, ss. 45, 189; 2000, c. 12, s. 142, c. 19, s. 49; 2007, c. 35, s. 53; 2013, c. 34, ss.

18, 320; 2014, c. 39, s. 59; 2016, c. 7, s. 43; 2018, c. 27, s. 19; 2019, c. 29, s. 35; 2020, c. 6, s. 4; 2020, c. 13, s. 4; 2021, c. 23, s. 43; 2022, c. 10, s. 19; 2022, c. 19, s. 42; 2023, c. 26, s. 55; 2024, c. 15, s. 52; 2024, c. 17, s. 59; 2024, c. 17, s. 80; 2026, c. 3, s. 78.

Date modified:

2026-09-11