

## Are you ready for the Estate Information Return?

In 2011, amendments were made to the *Estate Administration Tax Act* (EATA). The major amendment was to impose on the Estate Representative the obligation to provide financial information about the estate to the Ministry of Finance. The financial information is used by the Ministry to confirm that the appropriate estate tax has been paid by the Estate Representative on the assets of the estate. Regulation 310/14, setting out the procedure to provide the financial information to the Ministry, became effective January 1, 2015.

The regulation created a new document, Estate Information Return, which must be filed with the Ministry within 90 days after a certificate of appointment of an estate trustee is issued with respect to all certificates of appointment after January 1, 2015.

The Estate Information Return requires the Estate Trustee to provide details of all of the assets of the estate, the value of the assets, and to calculate the appropriate estate tax payable. Finally the Estate Trustee must certify that the document is true, correct and complete.

The Ministry of Finance has four years from the date that the tax became payable to reassess the estate. Under the provisions of the EATA, the Estate Trustee can face penalties for failing to comply with the Act and /or for misrepresenting the value of the estate. Penalties include a fine of at least \$1000 or up to twice the tax payable by the estate, or imprisonment for not more than two years, or both. However, there is an exception for statements made when the person did not know (and could not have known, using due diligence) that a statement was false.

There is also a requirement on the part of the Estate Representative to maintain records in the event of a reassessment of the estate by the Ministry of Finance.

In the event that the Estate Representative discovers that there was an error in the filing of the Estate Information Return, he or she can file an amended information return. The amended information return should be filed within 30 days of discovery of the error.

It will take some time to see how the new process will work and how the Ministry of Finance will enforce the regulations. Executors and counsel advising executors should be aware of the new provisions and must ensure compliance with the requirements. Information on the Estate Information Return and its filing can be obtained from the [Ministry of Finance website](#).

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This article first appeared in LAWPRO's April 2015 wills and estates webzine "Ask questions! Have answers." An electronic copy can be found at <http://www.practicepro.ca/information/doc/Estate-Information-Return.pdf>.

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