

IT 2341 - Income tax : eligible termination payments - extension of roll-over period

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INCOME TAX : ELIGIBLE TERMINATION PAYMENTS - EXTENSION
OF ROLL-OVER PERIOD

REF H.O. REF: 85/19520-4 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

OTHER RULINGS ON TOPIC : IT 2157, IT 2168, IT 2255, IT 2256,
IT 2272, IT 2286

2. This Ruling discusses the "special circumstances" in which the roll-over period should be extended.

4. An application for an extension of the 90 day roll-over period should set out fully the special circumstances that the

taxpayer considers make it unreasonable for that period to apply. The application should be sent to the Taxation Office at which the taxpayer normally lodges his or her income tax return. Ordinarily an application would be expected to be made prior to the expiration of the 90 day period, although there will, of course, be cases where an application is made at a later time. Such an application made within a reasonable period after expiration of the 90 day period should be considered on its merits. Where the circumstances are as described in the preceding paragraph, an extension would normally be appropriate.

5. An extension is not to be granted where it is clear that at no time during the 90 day period did the taxpayer have any intention of preserving an eligible termination payment - for example, where the taxpayer used the payment to finance a particular venture and, having subsequently come into funds from another source, seeks to roll-over an amount equal to the whole or part of the original eligible termination payment. However, bearing in mind the purpose of the roll-over provisions (to encourage preservation of eligible termination payments until eventual retirement from the workforce), it may be appropriate to extend the roll-over period in a case where a taxpayer has, in fact, preserved an eligible termination payment (e.g., by depositing it in a bank account) and can establish that he or she was unaware of, misunderstood or was incorrectly advised regarding the roll-over requirements. Here also, an application for an extension would be expected to be made within a reasonable period after expiration of the 90 day period.

6. Where it is decided that an extension of the roll-over period is appropriate, the extension should generally be of at least 28 days from the date of the advice to the taxpayer and, depending on the circumstances in which it has been granted, of no more than 60 days from that date. The advice should be provided in writing, with a request that a copy be included in the taxpayer's relevant income tax return.

COMMISSIONER OF TAXATION
21 July 1986

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