



CESTNICK

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TAX MATTERS

## The culture at Canada Revenue Agency needs a complete overhaul

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I love slapstick comedy. Why? Because growing old may be mandatory – but growing up is optional. It was author Carroll Bryant (among others) who made this observation. He also agreed that slapstick comedy is really funny – that is, unless you’re the one getting slapped with the stick.

In that same vein, Canada’s Taxpayer Bill of Rights is really funny – unless you’re the one dealing with the Canada Revenue Agency and feeling as though you have no rights at all. The Taxpayer Bill of Rights is mostly full of platitudes like “you have the right to privacy and confidentiality” and “you have the right to service in both official languages.” The fact that the bar is set so low when it comes to taxpayer rights in Canada will make you laugh. Or cry.

I’m increasingly hearing about average Canadians who feel that the CRA has been not only unreasonable and unfair, but predatory. I’m not talking about tax cheats. They deserve what they get. So many others, however, feel abused by the taxman, suggesting a cultural problem at the CRA. Here are some stories to consider.

### The reprimand

Justice Patrick Boyle, a Tax Court of Canada judge, recently issued a scathing decision in a 53-page ruling in which he reprimanded the Canada Revenue Agency and the Justice Department for behaviour that threatened to deny three taxpayers the right to a fair trial.

The taxpayers were facing significant penalties for false information filed by their tax consultant without their knowledge. Justice Boyle found that the CRA ignored court rules in order to “frustrate” the right that all Canadians have to fully understand an opponent’s case before heading to court.

Justice Boyle had issued orders demanding that the CRA hand over any documents relating to any investigations of the three taxpayers, but the CRA didn’t co-operate. He went on to say: “I variously described this as ‘outrageously misleading and inappropriate,’ ‘this might be contemptuous,’ ... ‘deeply, deeply disturbed,’ ‘highly inappropriate.’”

The lawyer for the three plaintiffs said that his clients lost “years of happiness” fighting a decade-long court battle with the threat of financial ruin always on their minds. In his ruling, Justice Boyle commented that “These abuses of the discovery process ... have caused considerable delay and expense to three Appellants in respect of their appeals. They have also led to an inefficient use of public resources financed by all Canadians.”

### **The home offices**

The next story is about two friends of mine, both chartered professional accountants (CPAs), which might hit close to home – literally. Like many, they were forced to work from home during the pandemic. Both claimed home office expenses and received “review letters” from CRA asking for information related to their claims. The information was provided, yet both were denied 100 per cent of their expenses. Not a single dollar allowed.

One of them sent in additional information – almost 100 pages in total, for a deduction that he expected would save him about \$1,300 in taxes. He then appealed to the Tax Court of Canada to hear his case since he knew he’d win. After two years of battle, before he went to court, CRA allowed his deductions. The other friend has decided that it’s not worth fighting this any further, even though his claim is legitimate.

The CRA seems to be automatically denying many of these claims even after taxpayers provide supporting information. Back to the Taxpayer Bill of Rights, which reads: “You have the right to have the costs of compliance taken into account when administering tax legislation ... we try to make your dealings with us as straightforward and

as convenient as possible by ... being practical in our interactions with you by reducing and simplifying ... the work, time, and effort you devote to preparing your taxes.”

Many believe those words aren’t worth the paper they’re written on. CRA is clearly counting on the average Canadian being unable or unwilling to engage in a time-consuming and expensive undertaking to fight for the legitimate expenses they have claimed – particularly when the tax savings are not very big. This is just plain wrong.

### **The culture**

Now, there are some kind people at the CRA. I’ve spoken to some front-line employees who are helpful, nice people. But the stories here are just two among many. I could write at length about battles with the CRA that have lasted more than 20 years that taxpayers thought were resolved (talk to those who put money into the Sentinel Hill film investment back in 2001 – a story for another day). This is unacceptable.

All of this suggests a culture at CRA that needs an overhaul. In the words of Justice Boyle: “Intoxicated with a sense of moral righteousness, the government apparently determined or acted like these Canadians were not worthy of basic procedural rights ....”

Our Taxpayer Bill of Rights needs to have teeth, and the culture at the CRA needs to change.

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