



CESTNICK

TAX MATTERS

CRA treatment of pastor highlights problems with the agency

SPECIAL TO THE GLOBE AND MAIL
PUBLISHED JUNE 12, 2024

It was May 2, 2024, that the Tax Court of Canada handed down its verdict in the case of *Schroeder v. The King* (2024 TCC 56). This is the story of Rev. Peter T. Schroeder, who is a certified and ordained clergyman. He was ordained in the North American Baptist Denomination in 1983, and resigned from his position in April, 2020, as pastor of a church in Kelowna, B.C., after serving that congregation for more than 40 years.

Then Rev. Schroeder had an opportunity to take on the role of chaplain to the RCMP members and personnel in the Kelowna area. He became chaplain to more than 300 RCMP employees. A letter from the RCMP district commander confirmed that Rev. Schroeder has provided critical wellness support “during those times our members experience traumatic incidents.” When distressing and disastrous events occurred, he’d show up on the scene to offer support.

Rev. Schroeder’s compensation for his chaplaincy services was paid by the Kelowna Trinity Baptist Church Legacy

Foundation. Now, clergy such as Rev. Schroeder are generally allowed to claim a “clergy residence deduction” to help reduce their tax burden. The agreement that Rev. Schroeder signed with the foundation was not titled an “employment agreement.” Rather, it was an “agency agreement.”

The clergy residence deduction under our tax law is available when the individual has earned income from an “office or employment.” The Canada Revenue Agency (CRA) took the position that Rev. Schroeder’s income was not from an “office or employment” and disallowed his \$22,000 clergy residence deduction for 2021. The taxes at stake amounted to \$5,645. CRA wasn’t giving in. The only option Rev. Schroeder had was to go to court, where he represented himself. The court allowed his deduction.

Without getting into the criteria the courts examine to determine whether someone is an employee or self-employed – regardless of the title on the agreement – I will simply say that there are many court cases on this exact issue and the criteria is well-established.

When it comes to Rev. Schroeder's plight, CRA's legal counsel should have had a better grasp of the criteria, should have known that he was effectively an employee and should have dropped this case from the outset. But instead, the department dragged Rev. Schroeder through a stressful reassessment and litigation process for over two years, costing the government many thousands of dollars. For what? Taxes of \$5,645. Shameful.

CRA problems

This government talks about taxing the rich and lowering taxes for "the middle class and those working hard to join it." Rev. Schroeder is, by all accounts, not in the category of the "rich." Did someone not send CRA the memo about focusing on the rich?

Perhaps the problem is that the government has increased the number of CRA employees by 47 per cent since 2015, when the Liberals came into power. These people need work to do. Is it any surprise, then, that honest taxpayers like Rev. Schroeder are unreasonably being targeted, and by employees who, apparently, don't have enough truly meaningful work to do, and lack a good understanding of the tax law and related jurisprudence?

CRA would be much better off with fewer, highly knowledgeable employees, who can take a more targeted approach to tax audits than wasting money and time chasing small, honest taxpayers. It's a process that is costing thousands of middle-class taxpayers millions of dollars to defend themselves against frivolous reassessments by the department.

I can add my own personal experience to the list. Like many Canadians, I regularly work from home and continually meet clients there on a regular basis. I did this even before the pandemic. I claimed home office expenses for 2019 and 2020 – all legitimate. The CRA audited my claim for these years. I have no problem with that. Until it became a problem.

The amount of detailed information that CRA required me to provide amounted to no less than 700 different documents, to support deductions which saved me about \$4,000 in taxes. I very nearly gave up, telling myself it's not worth it. Most would have given up providing information, and would have been denied deductions that they're legitimately entitled to claim. There is no reasonable correlation between the tax dollars at stake and the lengths to which the CRA will require taxpayers to go, to be provided the deductions or benefits they are legitimately entitled to. That's a big problem.

I agree with the thousands of tax professionals around the country who believe it's time for a reform of our tax system. But I will suggest that a reform of the Canada Revenue Agency, including its number of employees, the knowledge level of those employees, and the department's approach to audits and reassessments, is critical to making our tax system fairer.

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