

Taxpayers'  
**Ombudsman**

**Annual Report 2012-2013**



Government  
of Canada

Gouvernement  
du Canada

Canada

**Office of the Taxpayers' Ombudsman**

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# TAXPAYER BILL OF RIGHTS

1. You have the right to receive entitlements and to pay no more and no less than what is required by law.
2. You have the right to service in both official languages.
3. You have the right to privacy and confidentiality.
4. You have the right to a formal review and a subsequent appeal.
5. You have the right to be treated professionally, courteously, and fairly. \*
6. You have the right to complete, accurate, clear, and timely information. \*
7. You have the right, as an individual, not to pay income tax amounts in dispute before you have had an impartial review.
8. You have the right to have the law applied consistently.
9. You have the right to lodge a service complaint and to be provided with an explanation of [the Canada Revenue Agency's] findings. \*
10. You have the right to have the costs of compliance taken into account when administering tax legislation. \*
11. You have the right to expect [the Canada Revenue Agency] to be accountable. \*
12. You have the right to relief from penalties and interest under tax legislation because of extraordinary circumstances.
13. You have the right to expect [the Canada Revenue Agency] to publish our service standards and report annually. \*
14. You have the right to expect [the Canada Revenue Agency] to warn you about questionable tax schemes in a timely manner. \*
15. You have the right to be represented by a person of your choice. \*
16. You have the right to lodge a service complaint and request a formal review without fear of reprisal.

\* Service rights upheld by the Taxpayers' Ombudsman

August 21, 2013

The Honourable Kerry-Lynne D. Findlay PC, QC, MP  
Minister of National Revenue  
555 MacKenzie Avenue, 7<sup>th</sup> floor  
Ottawa, ON K1A 0L5

Dear Minister:

I am pleased to submit, for tabling in each House of Parliament, the fifth Annual Report of the Taxpayers' Ombudsman. This report provides an overview of the activities and operations of my Office, from April 1, 2012 to March 31, 2013. It highlights our achievements as we strive to ensure that taxpayers receive the professional service and fair treatment to which they are entitled from the Canada Revenue Agency.

Yours truly,

A handwritten signature in dark ink, appearing to read 'J. Paul Dubé', with a large, stylized initial 'D'.

J. Paul Dubé, BA, LL.B, J.D.  
Taxpayers' Ombudsman

August 21, 2013

Ms. Fauzia Lalani, P. Eng.  
Chair, Canada Revenue Agency Board of Management  
555 MacKenzie Avenue, 7<sup>th</sup> floor  
Ottawa, ON K1A 0L5

Dear Madam Chair:

I am pleased to submit the fifth Annual Report of the Taxpayers' Ombudsman.

This report provides an overview of our activities and operations from April 1, 2012 to March 31, 2013. I trust that the information contained in this document will assist you in your responsibility of overseeing the organization and administration of the Canada Revenue Agency.

Yours truly,

A handwritten signature in dark ink, appearing to read 'J. Paul Dubé', is positioned above the printed name.

J. Paul Dubé, BA, LL.B, J.D.  
Taxpayers' Ombudsman

## Message from the Ombudsman

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### Five years of making a difference for Canadians

I was appointed Taxpayers' Ombudsman in 2008 and I must confess that as I pen this message in 2013, I am astonished at how quickly the past five years have gone by. I look back with considerable pride at what my team and I have accomplished over that period. Some skepticism was expressed about my position when it was first created but I believe the impact of my Office has far exceeded original expectations.

In five very short years my team and I have built a new organisation from the ground up and established a respectable track record in bringing about positive changes at the Canada Revenue Agency (CRA).

In addition to responding to thousands of enquiries, requests for assistance, and complaints from taxpayers, we have investigated several of the systemic service and fairness issues faced by taxpayers in their dealings with the CRA. Those investigations have resulted in an Observation Paper, six Special Reports, and 24 recommendations for corrective action. To date, all of my recommendations to various Ministers of National Revenue have been accepted and are being implemented by the CRA. If Canadians are now receiving adequate written reasons for the decisions of the CRA's Appeals Branch, if there is better information more readily available about the Canada Child Tax Benefit, if taxpayers are more informed about the tax consequences of the Tax Free Savings Account, if the CRA is misallocating fewer taxpayer payments, if students who study abroad receive a more fair determination of their application for the Tuition Tax Credit, and if the CRA is reducing the number of Access to Information and Privacy Requests received and processing the requests it does receive more efficiently, those improvements are due in no small measure to the work of my Office.

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The Office of the Taxpayers' Ombudsman (OTO) is the last recourse for taxpayer complaints about the treatment or service they receive from the CRA. We typically get involved after the CRA's Service Complaints process has been exhausted. It is important to remember that we operate at arm's length and are not part of the CRA. We are not concerned only with "service issues" such as rude behaviour, accessibility to information, or the timeliness of communications. The Taxpayer Bill of Rights entitles taxpayers to fair treatment from the CRA and I fulfill my mandate as Taxpayers' Ombudsman by upholding the right to fair treatment. Promoting taxpayer fairness is, therefore, at the heart of our mission at the OTO.

The CRA interacts with more Canadians than any other government agency or department in Canada and makes thousands of decisions every day that affect the rights and interests of taxpayers and benefit recipients. The CRA's responsibility to administer Canada's tax system includes the authority to make decisions on several aspects of a taxpayer's tax, benefit, and employment obligations. With the authority to make decisions comes the responsibility to make decisions fairly and transparently. It is, therefore, through the lens of fairness that we examine every single taxpayer complaint and systemic issue. Taxpayers in Canada have a right to fairness from the CRA, and my team and I will continue to work diligently to promote and uphold that right.

While my Office was created to improve the CRA's accountability, we must be accountable as well. We produced an Interim Report on our activities within a year of becoming operational and this is our fifth Annual Report. The results achieved by my Office are due largely to the members, both past and present, of a dedicated team I have been fortunate enough to

work with. We are pioneers in this endeavour and day in and day out the management and staff of the OTO are required to be innovative and resourceful as we blaze new trails. I am grateful for their eagerness to find solutions time and time again.

I wish to thank the many taxpayers, tax practitioners, and representative associations who bring matters to our attention and provide us with valuable knowledge. I owe a special thanks to the members of my Consultative Committee who so generously contribute their time, energy, and insight. The contribution of external stakeholders is crucial to setting our objectives, and carrying out our work. I hope those contributions will continue to increase as more people come to understand the work we do and appreciate our potential for even greater positive impact.

I also extend my thanks to the many ombuds colleagues across the country and around the world from whom I have learned so much. For example, consultations with the Taxpayer Advocate in the United States and Australia's Inspector-General of Taxation have been especially beneficial. Thanks to visionary leadership, these well-established offices<sup>1</sup> have been quite successful in promoting fairness and correcting maladministration within their respective tax administration systems. Learning their best practices has provided me with valuable insight and more tools to maximize the effectiveness of my Office.

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<sup>1</sup> While the Taxpayers' Ombudsman, Taxpayers' Advocate and Inspector-General of Taxation each have distinctive mandates, the three officers have similar roles. All three are scrutineers of their respective tax authorities charged with assessing how well those authorities are treating taxpayers, meeting their needs, and respecting their rights.

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“Fairness, in the context of public servants’ duties and obligations, is much more than just a fair hearing or a provision of a service. It is about providing information that is easily found, accessed and understood. It is about treating the public with dignity and respect and providing an open, accountable and timely service. Last but not least, it is about providing well-reasoned decisions to the public about actions taken by public servants”

- Fiona Crean, Ombudsman for the City of Toronto

## Looking forward

As I look forward to the remainder of my mandate I see many challenges ahead. Taxpayers increasingly expect speed and convenience in their communications with government agencies. Realizing that my Office is no exception, we have responded to those expectations by launching an On-Line Complaint Form and revising our policies and procedures to make them more responsive to the needs of stakeholders. We will continue to seek ways to enhance our service to taxpayers through the development and measurement of service standards as well as improve the transparency of our operations by making our investigative procedures accessible on our Web site.

## Information challenges

Despite the considerable efforts devoted to outreach over the past five years, we still have more work to do to increase awareness of my role and understanding of my mandate. Rights do not do much for those who do not know about them. It is my observation that Canadians are still not sufficiently aware of their rights as taxpayers and we still have more work to do to raise awareness of, and confidence in, the work of the OTO. Our outreach efforts are ongoing and our communications strategy continues to evolve. We are currently planning to establish a social media presence and enhance communication with stakeholders through webinars and other electronic media. Outreach efforts to inform and educate CRA management and staff about the role of my Office will also remain a high priority.

As an ombudsman, my role is a neutral one. I am neither a taxpayer advocate nor a defender of the CRA. Yet, despite the fact that my Office operates at



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arm's length from the CRA, many Canadians think – incorrectly – that we operate as part of the CRA. On the other hand, the CRA does see us as outsiders but often assumes – incorrectly – that we are advocating for complainants. We will continue to educate stakeholders about our role and the potential benefits to all concerned.

### Confidence challenges

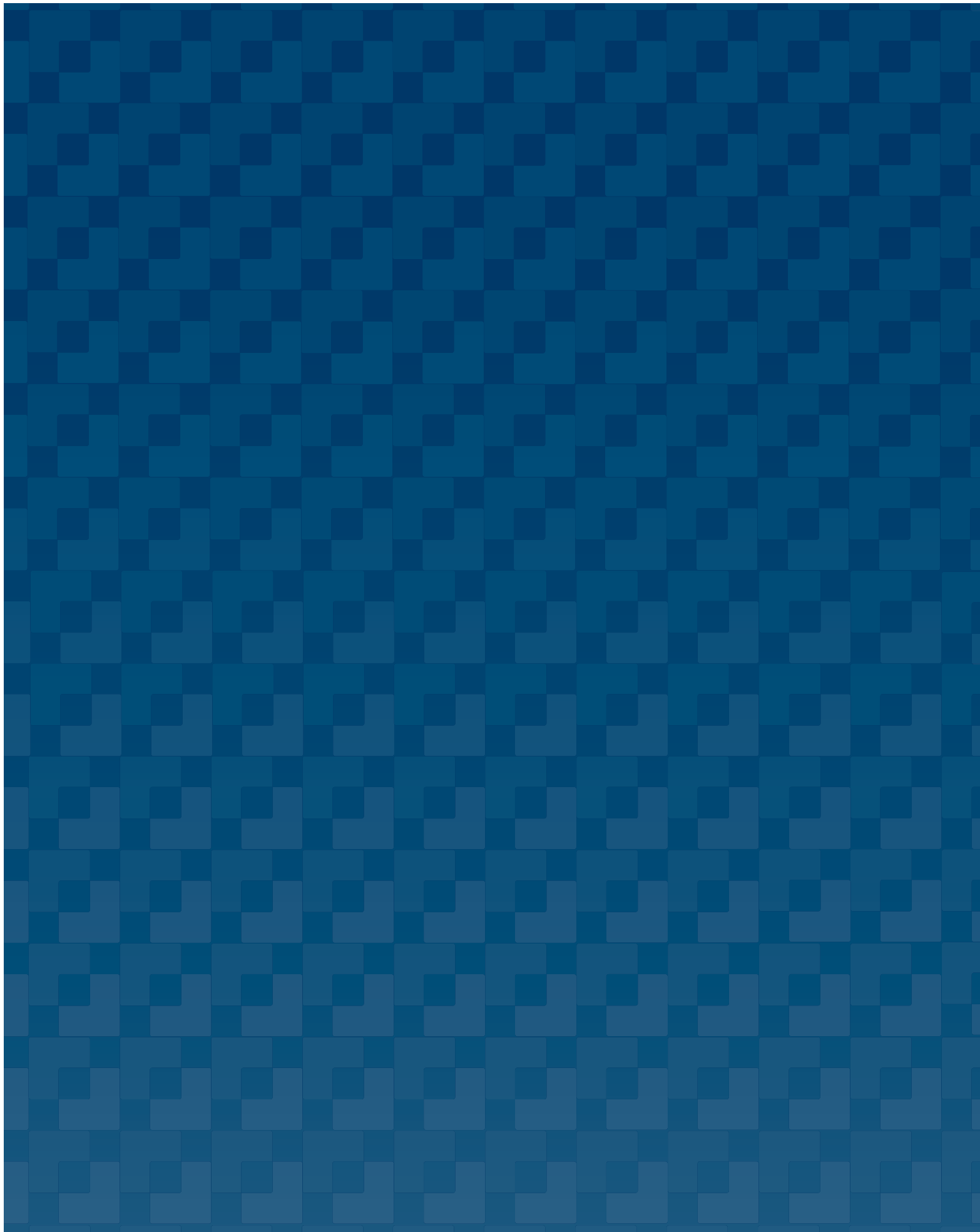
Two things taxpayers and tax professionals tell us that they want in their dealings with the CRA, in addition to fair treatment and professional service, are certainty and finality. Canadians want to know that if they act in good faith according to information, advice, or rulings provided by the CRA, they will not face an unpleasant surprise in the form of a reassessment or a change of the CRA's position later on. We have heard many anecdotes about such occurrences and other allegations of unfair treatment by the CRA from taxpayers or tax professionals who would not file a formal complaint with our Office. Yet we can only intervene in an individual case and assess whether the CRA has met its obligations pursuant to the Taxpayer Bill of Rights if we have a complaint to investigate.

Canadians rely on the CRA for information and services in order to be able to fulfill their obligations pursuant to the *Income Tax Act*. It is imperative that they be able to receive clear, complete, and accurate information from the CRA in a timely fashion. It is also imperative that the CRA's considerable powers not be used in an arbitrary manner. For the Taxpayer Bill of Rights to be relevant and effective, Canadians need to have confidence that its protections are meaningful and take advantage of them. In other words, the CRA must not only respect and comply with the Taxpayer Bill of Rights, it must be seen to do so.

This issue is also relevant to the CRA's bottom line. The manner in which tax administrators perform their duties and exercise their considerable powers has a significant impact on their ability to collect revenue effectively. If citizens perceive the actions or processes of a revenue authority to lack fairness, they may contest the legitimacy of those actions or processes, or even opt out of the tax system entirely. The result is that the revenue authority has to process more appeals and objections, litigate more disputes, and allocate more resources to the detection and deterrence of non-compliance.

Given that Canada's self-assessment tax system is based on voluntary compliance, the CRA needs to establish and maintain legitimacy with every Canadian it serves. The more the CRA is seen to be transparent, open to constructive feedback, and accepting of feasible recommendations for positive change, the more trust and confidence taxpayers will have in its administration of the tax system. More trust and confidence will mean fewer disputes and lower operating costs.

Going forward we will continue to strive to instill a service culture at the CRA and enhance its accountability to taxpayers, not only because it is what taxpayers deserve but because that is what is in the best interest of all stakeholders, including the CRA.



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# ABOUT US

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The Taxpayers' Ombudsman is an independent officer appointed by the Federal Government. The position was created to support the priorities of stronger democratic institutions, increased transparency, and the fair treatment of all Canadians.

## Our vision

In every interaction, the Canada Revenue Agency (CRA) treats taxpayers fairly and serves them professionally.

## Our mission

The Taxpayers' Ombudsman is committed to ensuring transparency, accountability, and the fair treatment of taxpayers by the CRA.

## Our values

We believe in interactions based on independence, impartiality, fairness, and confidentiality that encourage people to adapt and cooperate while working respectfully towards positive outcomes.

## What we do

The Taxpayers' Ombudsman ensures that the CRA is fair and transparent in its administrative processes. All stakeholders – taxpayers, tax professionals, and the CRA – benefit from the work of the Office of the Taxpayers' Ombudsman (OTO). We work with taxpayers, their representatives, and the CRA to resolve not only individual complaints, but problems that are systemic in nature. We help taxpayers get the attention their problems deserve and our intervention often leads to positive outcomes they could not achieve on their own. We also often de-escalate tensions between taxpayers and the CRA, affirm the work of CRA employees, and propose recommendations to improve the CRA's policies and procedures.

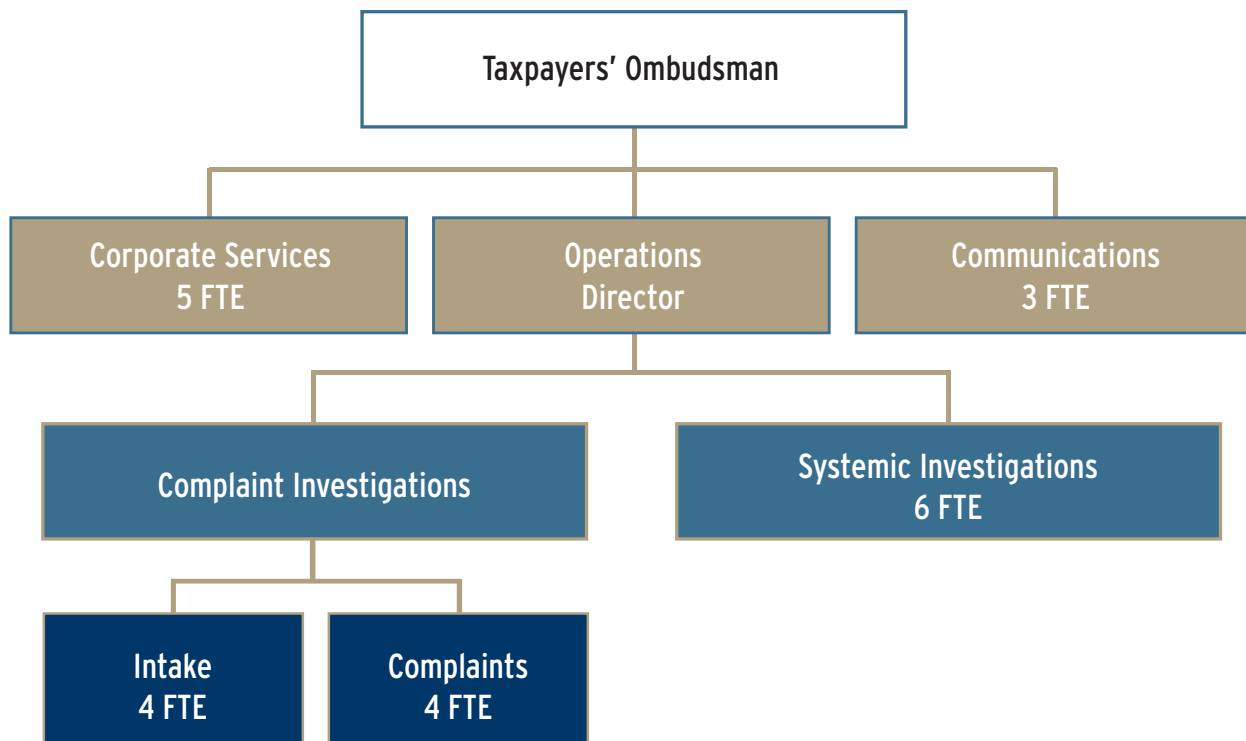
The OTO is an office of last resort. This means that the Ombudsman will normally only review a request if the requester has exhausted the CRA's internal redress mechanisms. Exceptionally, the Ombudsman may undertake a complaint investigation before the other redress mechanisms have been exhausted if the Ombudsman determines that there are compelling circumstances, such as:

- a) the complaint raises systemic issues;
- b) exhausting the redress mechanisms will cause undue hardship to the taxpayer; or
- c) exhausting the redress mechanisms is unlikely to produce a result within a period of time that the Ombudsman considers reasonable.

### How we do it

The activities of the OTO are carried out by three units working in unison: Operations (Intake, Complaint Investigations, and Systemic Investigations), Communications, and Corporate Services. The office employed a staff of 26 Full-Time Equivalents (FTE) during this reporting period.

### Organizational Structure of the Office of the Taxpayers' Ombudsman



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## Operations Unit

The Operations Unit is divided into three teams.

The Intake Team is the first point of contact for taxpayers. It assists taxpayers by:

- informing them of their rights and educating them about the complaints process;
- answering their questions and enquiries, and providing guidance; and
- helping them access redress mechanisms within the CRA, or other government departments if necessary.

The Complaint Investigations Team works to resolve taxpayer complaints about service or fairness. It does that by:

- getting both sides of the story and conducting independent and impartial investigations of complaints received;
- evaluating the CRA's service to, and treatment of, the complainant based on the evidence;
- requesting that the CRA take specific action to rectify the taxpayer's issue, when appropriate; and
- advising the parties of the outcome.

The Systemic Investigations Team examines issues that may adversely affect multiple taxpayers. This team:

- identifies systemic service or fairness issues;
- gathers information from complainants, the CRA, and other stakeholders;
- conducts research and analysis of the issues; and
- compiles findings and prepares recommendations.

## Communications Unit

The Communications Unit plans and coordinates our efforts to inform stakeholders about their rights as well as our role and activities. This unit:

- provides strategic advice on public affairs and stakeholder engagement;
- responds to media inquiries;
- plans and coordinates communications and outreach activities;
- manages the Taxpayers' Ombudsman Web site and develops a social media presence; and
- produces a newsletter, articles for publication, and other communication products.

## Corporate Services Unit

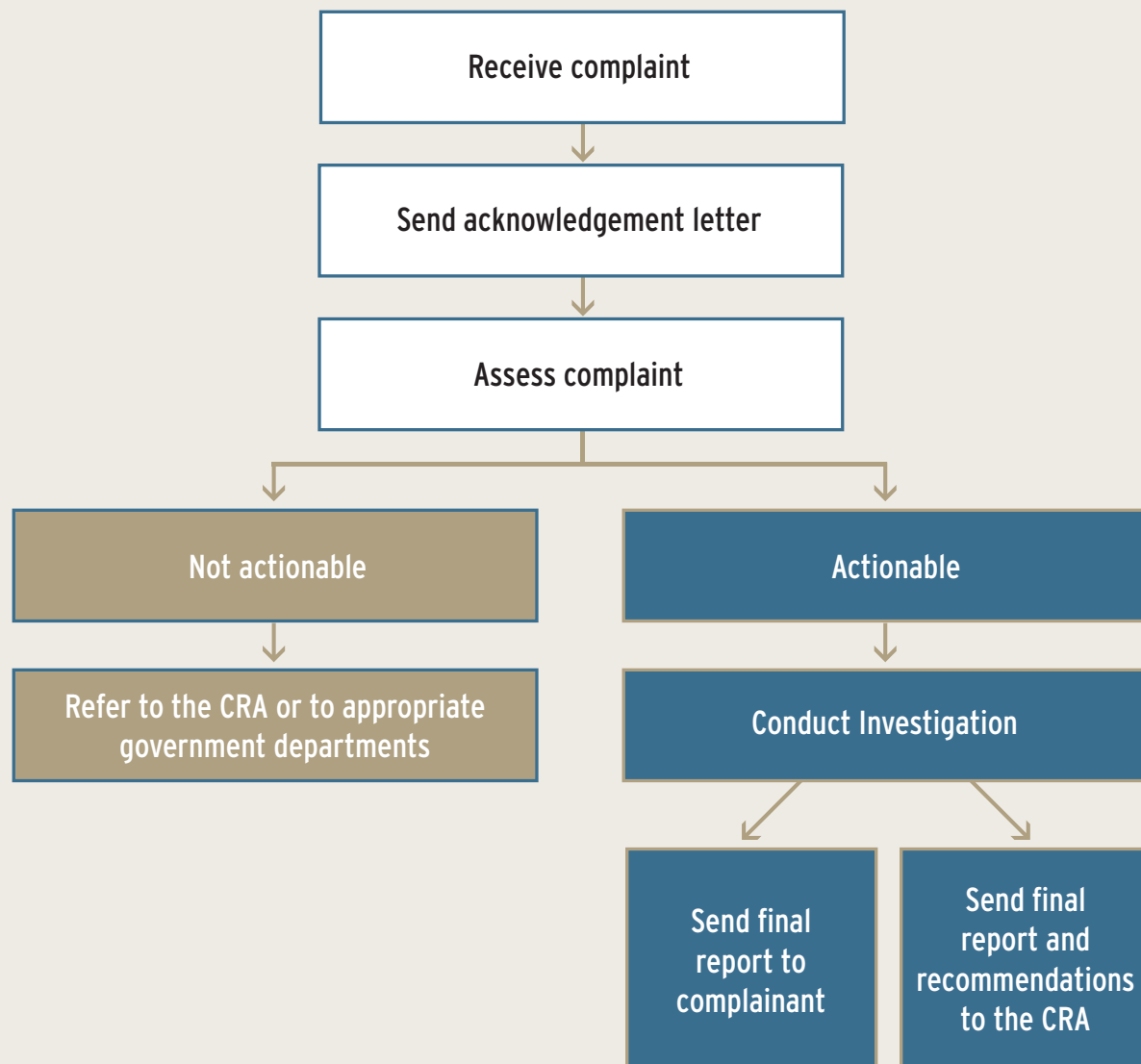
The Corporate Services Unit ensures organizational effectiveness and accountability. This unit:

- provides advice and integrated organizational services;
- is responsible for fulfilling legislative requirements, such as requests pursuant to the *Access to Information Act* and the *Privacy Act*;
- conducts corporate planning, quality assurance, financial management, human resources management, and information management;
- coordinates contracting and information technology services; and
- develops and updates corporate documents.

# COMPLAINT INVESTIGATION PROCEDURES

Many taxpayers come to our Office seeking a fair and impartial review of a complaint related to the treatment or service they have received from the Canada Revenue Agency (CRA). We strive to respond to all enquiries within two business days.

Our process works like this:



We receive complaints by mail, by fax, in person, and, since March 2013, through an electronic On-Line Complaint Form. We assess the complaints to determine if they are actionable by our Office. Some complaints do not relate to matters of fairness or service and are, therefore, not actionable. We refer these complainants to the department or agency that is best suited to helping them.

Sometimes complaints need immediate attention, such as in cases of financial hardship. In these instances, we send an Urgent Request for Action to the CRA, which the CRA usually addresses within 48 hours.

When we receive a complaint that is admissible, we assign it to our Complaint Investigations Team for review. Once we have a complainant's written consent to access their file at the CRA, we conduct a thorough investigation, soliciting input from the complainant and the CRA to obtain the widest and most accurate understanding of the complaint possible. Our investigators will contact the complainant to inform them of our processes and to provide them with regular updates.<sup>2</sup> Once an investigation is completed, we will communicate our findings to the taxpayer and the CRA. If the complaint is found to have merit, we can propose constructive action to the CRA through administrative recommendations.

Summary of Files		
Files Opened	2012-2013	2011-2012
Files carried over from previous fiscal	110	107
Files opened	990	835
Files re-opened	41	35
<b>Total</b>	<b>1141</b>	<b>977</b>
Files Closed		
Non-Mandate (closed after preliminary review)	358	250
Early Resolution	525	427
Investigations completed	191	163
<b>Total</b>	<b>1074</b>	<b>840</b>

## Tracking Issues

We track our workload not only by the number of complaints, but also by the number of issues raised by complainants. Tracking the issues enhances our understanding of the problems faced by taxpayers and enables us to identify trends and provide constructive feedback to the Canada Revenue Agency (CRA).

Issues per File	
File Complexity	Number of files
Number of files with 1-3 issues	164
Number of files with 4-5 issues	15
Number of files with 6+ issues	12
<b>Average number of issues per file</b>	<b>2.2</b>

<sup>2</sup> Our service standard for updates is every 15 days.



We also identify which service rights are relevant to a complaint. The service rights relevant to complaints in this reporting period are quantified in the chart below.

Issues by Service Right				
Taxpayer Right	Investigations			
	With Merit	Without Merit	Discontinued	Total
To be treated professionally and courteously	29	60	14	103
To be treated fairly	59	52	9	120
To complete, accurate and clear information	33	74	9	116
To timely information	5	20	0	25
To lodge a service complaint and to be provided with an explanation of the findings	5	4	0	9
To have the costs of compliance taken into account when administering tax legislation	0	2	2	4
To expect CRA to be accountable	9	21	3	33
To be represented by the person of your choice	0	1	0	1
<b>Total</b>	<b>140</b>	<b>234</b>	<b>37</b>	<b>411</b>

The Office of the Taxpayers' Ombudsman receives enquiries, complaints, and requests for assistance from taxpayers all across Canada. The chart below demonstrates the number of files received by our Office and from which province or territory they originated.



2012-2013 Caseload: 918 within Canada, 21 outside Canada, and 51 addresses undisclosed.

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The following are case summaries that illustrate the scope of our work on complaint files

- from consultation, referrals to the CRA, to full investigations.

## Case Summaries

### **Upholding a taxpayer's right to complete, accurate, clear and timely information**

Mr. X contacted our office, frustrated by his inability to get clear and accurate information about his tax liabilities from the CRA. He claimed that he received conflicting information about how to claim lump sum Canada Pension Plan payments. Mr. X's 2009 personal income tax had been reassessed four times and he claimed that, despite several requests, he was unable to obtain clear information from the CRA as to how the amounts on the reassessments had been determined, or how much money he owed as a result. Mr. X lodged a complaint with the CRA – Service Complaints program but was not satisfied with the outcome. He felt that at the end of that process he had still not been provided with sufficient information from the CRA. When Mr. X came to us, we facilitated the provision of information from the CRA. In a Request For Action we recommended that the CRA contact the taxpayer to provide him with answers to his questions, including the current outstanding balance on his tax account. We also suggested that the CRA provide Mr. X with information on the CRA's Taxpayer Relief program under which he could request a cancellation of penalties and interest. As a result of our intervention, Mr. X was promptly provided with the information he needed to resolve his tax matters and to apply for relief of penalties and interest.

### **Financial hardship resolved**

Mr. Y contacted our Office claiming financial hardship and looking for help. In August 2012, he had submitted amended tax returns to the CRA for the previous six years and was expecting a substantial refund as a result. By November 2012, he had not received his refund.

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When he contacted the CRA to find out why, he was told that he needed to resubmit his documents and that it would take another six to eight weeks to process them. We sent the CRA an Urgent Request for Action, asking that Mr. Y's situation be addressed as soon as possible. As a result of our intervention, Mr. Y's reassessment requests were expedited and the refund was issued within 2 weeks.

### **Misallocation of payments corrected**

After Ms. J's business was audited by the CRA she filed an appeal because she felt that the CRA's audit results were incorrect. Consequently, a refund was issued to Ms. J. However, she believed that the CRA had made an error in adjusting the arrears interest and thought that a substantial refund was still owed. Once Ms. J contacted our Office for assistance, we reviewed the information she had submitted and began to investigate how payments had been allocated to Ms. J's account. In the course of our investigation, the CRA became aware of a payment misallocation and promptly corrected it. The CRA subsequently issued the additional refund Ms. J felt she was owed.

### **Eligibility for benefits established**

Mr. O took custody of his daughter when he separated from his wife in 2008. He filed his 2008 and 2009 income tax returns and claimed his daughter as an eligible dependent. The CRA requested that he provide documents to support this claim, as well as to support his claim for the Canada Child Tax Benefit (CCTB). Mr. O sent in the requested information on three

separate occasions to various CRA departments but did not receive a response. Upon receiving Mr. O's complaint we began looking into the current status of his applications. Our investigation revealed that the information he had sent to the CRA was sufficient for him to claim his daughter as an eligible dependent, but insufficient to claim the CCTB. As a result, we sent the CRA a Request for Action asking that it contact Mr. O promptly to provide him with information and assistance to help him substantiate his CCTB claim. As a result of our intervention, Mr. O was able to submit the required documentation and receive the benefit to which he and his daughter were entitled.

### **Refund issued in a timely manner**

Mr. E contacted our Office claiming he was experiencing financial hardship. Mr. E also claimed that he was owed a refund from the CRA which he said was needed to be able to prevent the bankruptcy of his business. We sent an Urgent Request for Action to the CRA explaining the issue and the urgency. Within a month, the CRA had completed the reassessments and a substantial refund was issued to Mr. E, which saved his business from bankruptcy.

# SYSTEMIC INVESTIGATIONS

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In addition to investigating complaints from individual taxpayers, the Taxpayers' Ombudsman is mandated to identify systemic and emerging service and fairness issues that have the potential to adversely affect taxpayers. The systemic investigation process includes the research phase, the analysis phase and the reporting phase. Should the research and analysis phase conclude that the CRA could do more to comply with the Taxpayer Bill of Rights, the Ombudsman will submit a Special Report to the Minister of National Revenue with recommendations for corrective action.

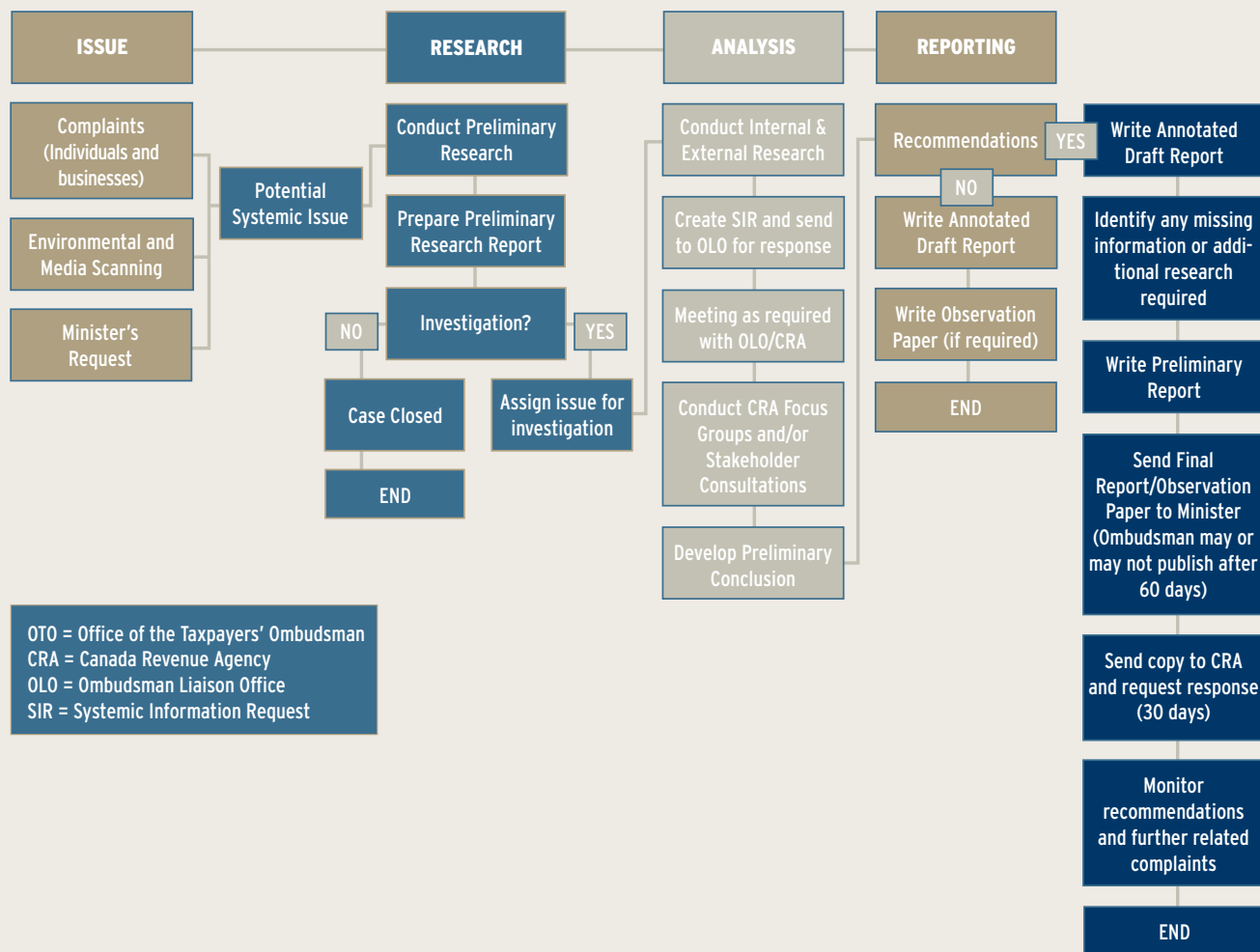
## Procedures

The objective is to identify and help correct service and fairness problems as quickly as possible.

The Taxpayers' Ombudsman contributes to improvements in CRA accountability and service by providing independent advice in three ways:

- Systemic recommendations to the Minister of National Revenue
- Administrative recommendations to the CRA
- Informal feedback through day-to-day interactions with the CRA

# OTO Systemic Investigation Process Map



## Special Reports Published

During the 2012-2013 fiscal year, the Taxpayers' Ombudsman released three Special Reports and made 15 recommendations to the Minister of National Revenue. These reports are summarized below. The complete reports are available on the Taxpayers' Ombudsman Web site or by contacting our Office.

To date, various Ministers of National Revenue have accepted all the recommendations made by the Taxpayers' Ombudsman and the Canada Revenue Agency (CRA) is implementing them.

### Earning Credits



Students who attend post-secondary educational institutions in Canada are eligible to apply for a non-refundable tax credit for tuition fees and related expenses. The tax credit for these expenses, which is administered by the CRA, reduces the amount of income tax the

student may have to pay. This tuition tax credit is also available to students who attend certain educational institutions outside Canada, provided the institution meets conditions set out in the *Income Tax Act*.

Our Office received complaints from students attending educational institutions outside Canada who felt, as a result of being denied the tuition tax credit, that they were being treated unfairly by the CRA. Our investigation revealed that the CRA's assessment of their claims had not been based on the criteria set out in the *Income Tax Act*, but solely on whether or not the educational institution they attended was on a pre-approved list.

Within months of commencing our investigation, the CRA began to take steps to address the problem by clarifying and re-enforcing its procedures to ensure consistent application by its employees.

The Ombudsman recommended that the CRA continue to ensure that the assessment of claims for the tuition tax credit be based on the provisions of the *Income Tax Act* and not solely on internal practices. The Ombudsman also recommended that the CRA do more to inform Canadians about the availability of tuition tax credits for expenses incurred while attending educational institutions outside of Canada, as well as the eligibility criteria. These recommendations were accepted by the Minister of National Revenue and are being implemented by the CRA.

### Acting on ATIP



We received complaints from taxpayers facing difficulties in obtaining information from the CRA through requests made pursuant to the *Access to Information Act* and the *Privacy Act*. These are commonly referred to as Access to Information and Privacy (ATIP) requests. Complaints

about the CRA's service with respect to ATIP requests included not responding promptly, not providing enough information about how to file ATIP requests, not explaining the reasons for delays in providing the requested information, and requiring taxpayers to make requests pursuant to the *Access to Information Act* or *Privacy Act* (referred to as 'formal' requests which are processed by the CRA's ATIP Directorate) rather than allowing taxpayers to request the information 'informally' by simply asking a CRA employee to provide it.

Federal government departments and agencies, like the CRA, are bound by the law as set out in these Acts, which specify time limits within which they must respond to a request for information. The *Access to Information Act* sets a 30-day limit with the possibility of an extension for a reasonable period of time if, for example, the request encompasses a large number of records or the institution must consult with another department, agency or third party. The *Privacy Act* sets a 30-day limit with the possibility of an additional 30-day extension to respond to the request. Under both the *Access to Information Act* and the *Privacy Act*, the reasons for applying the extension must be communicated to the requestor.

Whether or not the CRA is meeting the legislated requirements for timely access falls within the purview of the Federal Information and Privacy Commissioners. However, by failing to provide complete, accurate, and timely information to taxpayers making ATIP requests, the CRA is neglecting to comply with the Taxpayer Bill of Rights and this matter falls within the purview of our Office.

Our investigation into these complaints revealed that, in several instances, even though the CRA had invoked an extended deadline, it failed to provide a completed response to the request before the extended deadline had been reached. Some complainants were left not knowing when they could expect to receive the information they had requested or whether anyone was even working on their request.

These delays can have a negative impact on taxpayers wanting to know the reasons for the CRA's decision on an objection or appeal prior to making a decision to file an appeal with the Tax Court of Canada. Without the proper information, taxpayers are left not knowing whether or not appealing to the Court is advisable.

The Ombudsman recommended improvements aimed at making it easier for taxpayers to request and obtain information from the CRA. The Ombudsman recommended that the CRA ensure that efficient processes and adequate resources are put in place within the ATIP Directorate to address the processing of information requests and reduce the backlog in a timely manner. The Ombudsman also recommended that the CRA develop clear policies and procedures that promote the use of informal disclosure and provide enhanced training to its personnel to assist them in handling these types of requests. Additionally, the Ombudsman recommended that the CRA provide the public with clear information on how to make informal requests for information and advise the public when extended requests will not be met. Finally, the Ombudsman recommended that the CRA continue and enhance the public disclosure of completed ATIP requests, and update its communication products in order to promote the availability of this service. These recommendations were accepted by the Minister of National Revenue and are being implemented by the CRA.

## Getting it Right



Each year, the CRA processes approximately 34 million payments from Canadian taxpayers. Many taxpayers have multiple accounts with the CRA. For example, they may have personal income tax accounts, corporate accounts, and goods and services tax/ harmonized sales tax (GST/

HST) accounts. Our office received complaints from taxpayers alleging that the payments they made to their accounts were “misallocated.” In other words, the payments were not applied to the intended



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account. Some said that as a result of these errors they had been assessed interest and penalty charges, while others informed us they were subjected to payment demands from CRA collections officers. Many of these taxpayers complained about the time and effort they had to spend to correct such errors.

Our investigation revealed that payment misallocations occur due to errors, both by the CRA and taxpayers. We learned that the CRA has quality assurance measures in place to detect and correct its own internal processing errors. However, if a misallocation is the result of an error or omission by a taxpayer, the controls to detect the problem are less stringent. While the CRA has implemented certain electronic payment options intended to minimize these errors, payments are still being misallocated and generating taxpayer complaints.

In this report, the Ombudsman recommended that the CRA review its standards and procedures for processing payments to ensure that CRA employees are afforded sufficient time to accurately and thoroughly perform their duties. The Ombudsman also recommended that the CRA determine the optimal remittance batch limit for the most efficient detection of processing errors. Additionally, the Ombudsman recommended that the CRA inform and educate taxpayers on how to avoid making remittance errors, as well as how to have them corrected when they do occur.

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“This is a very specific issue that has frustrated small-business owners and the ombudsman was very clearly in a good position to get to the bottom of it and find out what was happening and make recommendations that will work.”

**Laura Jones - Canadian Federation of Independent Business**

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## Other Investigations

Not all of our systemic investigations culminate in a Special Report. Sometimes we determine that further action by the CRA is not required or that recommendations are not warranted. Although we may not issue a Special Report in such circumstances, the Ombudsman will share his findings with the Minister of National Revenue and the CRA, provide a summary in the Annual Report, or publish an Observation Paper on the subject. Included in this Annual Report are details from three investigations, two of which were concluded in 2012-2013, and one that is still ongoing.

### Effective Registration Dates for GST/HST (Voluntary Registrants)

We received complaints alleging that the CRA was inconsistent in its determination of the “effective registration dates” for GST/HST voluntary registrants and that this was unfair. The complaint was that taxpayers could not get a consistent response from the CRA about how it would determine the effective date of registration for GST/HST.

Our investigation found that, depending on the method of registration, there were indeed inconsistencies in how the CRA applied the effective GST/HST registration date. If the application was made over the phone or in person, the CRA would use the day of the call (or visit) as the effective date. If the application was mailed, the CRA would use the date post-marked on it by postal authorities. If the application was received by fax, the date stamped on the fax by the fax machine would be used. If the application was hand-delivered or sent by courier, the date on the CRA’s receipt stamp would be used.

During the initial stages of our investigation, we shared our observations on these inconsistencies with the CRA. The CRA proceeded to change both its internal procedures and external information in order to ensure consistency in how the effective dates for GST/HST voluntary registration are determined and applied, regardless of the method of registration. We found that these actions adequately addressed the issues that were raised by complainants and the investigation was closed.

### Delays in the International Tax Services Office

We received a number of complaints from taxpayers and their representatives concerning the inaccessibility of the International Tax Services Office (ITSO) through its phone lines and significant delays in its correspondence to taxpayers. Complainants told us they either received a busy signal when calling the ITSO or had to wait a long time before reaching an agent. Taxpayers had also complained about the amount of time it took the ITSO to respond to correspondence. Complainants told us that multiple attempts were required before contact could be made, and in some cases their faxes and letters were never acknowledged or responded to.

During the course of our investigation, the CRA began to make significant changes at the ITSO, both with respect to phone lines and the correspondence unit. The responsibility for managing the phone lines was transferred to the national call centres, new procedures for acknowledgement of certain letters were implemented, and a new system for tracking correspondence was developed.

Following the implementation of the changes at the ITSO, complaints about these issues subsided. We determined that the actions taken by the CRA appeared to have adequately addressed the issues raised in the complaints and the investigation was closed.

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### CRA Training Videos and Respecting the Taxpayer Bill of Rights

The Minister of National Revenue requested the Taxpayers' Ombudsman to review all training videos in use by the CRA to ensure that they respected the Taxpayer Bill of Rights. Additionally, the Minister requested that the Ombudsman review all future training videos to ensure that they are consistent with the Taxpayer Bill of Rights.

Early in our investigation, we found that the CRA did not have a central inventory of all the training videos in its possession. In fact, extensive research was required in order to determine what videos were currently in the CRA's possession and where they were located. Therefore, it became obvious that in order to be able to fulfill the Minister's requests, an accurate inventory of training videos had to be established.

As a result, the Ombudsman issued an interim report to the Minister, recommending that the CRA develop a national electronic inventory of all its training videos. This recommendation was accepted by the Minister, and in December 2012, the CRA implemented mandatory registration of training videos in its national Directory of Learning Products inventory.

We are continuing our research into the CRA's policies and procedures for making and procuring training videos. We expect to release a full report on our investigation during the 2013-2014 fiscal year.



## RECOMMENDATIONS MADE TO DATE

Ombudsman Special Report	Recommendations	
	Made by the Ombudsman	Accepted by the Minister
<b>The Right to Know</b> – Examination of the sufficiency of information in Decision Letters from the Appeals Branch of the Canada Revenue Agency – published in November 2010	1	1
<b>Proving Your Status</b> – Establishing eligibility for the Canada Child Tax Benefit – published in December 2010	5	5
<b>Knowing the Rules</b> – Confusion about the rules governing the Tax-Free Savings Account – published in August 2011	3	3
<b>Getting it Right</b> – Investigation of service and fairness issues arising from the misallocation of payments by the Canada Revenue Agency – published in September 2012	3	3
<b>Earning Credits</b> – Service and fairness issues in the assessment of tuition tax credits for expenses incurred attending educational institutions outside Canada – published in May 2012	5	5
<b>Acting on ATIP</b> – Service issues in the Canada Revenue Agency's Access to Information and Privacy processes. – published in June 2012	7	7



Presentation at Tax Practitioner Seminar

# INFORMING CANADIANS

## Outreach

The Taxpayers' Ombudsman's commitment to informing Canadian taxpayers of their rights and explaining his role is as strong today as it was when he was first appointed five years ago.

The Ombudsman continued his outreach efforts through speaking engagements to tax professionals and national stakeholder groups. The feedback received from participants about the service they received from the CRA provided the Ombudsman valuable insight into service and fairness issues. Some of these issues lead to systemic investigations.

In addition to speaking to many accountants, tax preparers, and tax lawyers at various information sessions, the Ombudsman also joined international counterparts in a panel discussion about taxpayer rights at the International Tax Enforcement Conference

held in New York City. This conference, sponsored by the American Bar Association, was a valuable opportunity for the Ombudsman to learn about trends in tax enforcement and issues that could potentially have an impact on Canadians and their service rights. It also provided the chance to discuss best practices with other ombuds whose role is to promote fairness and taxpayer rights.

Employees of the Office of the Taxpayers' Ombudsman also participated in outreach activities. For the second year in a row, employees from our Office participated in the Willowdale Community Fair, "Help is Here". This event was hosted by the City of Toronto and co-hosted by Member of Parliament, Chungsen Leung. The fair participants, including local organizations and provincial and federal agencies, offered visitors the opportunity to ask questions and gain useful information about available services.

Outreach and Speaking Engagements		
Date	Event	Location
Sept. 11, 2012	Tax Practitioner Seminar sponsored by PricewaterhouseCoopers LLP	Toronto
Sept. 13, 2012	National Conference of the Canadian Institute of Chartered Accountants	Mississauga
Nov. 9, 2012	American Bar Association Conference on International Tax Enforcement	New York
Nov. 20, 2012	Tax Practitioner Seminar sponsored by Torkin Manes Law Firm	Toronto
Feb. 13, 2013	Tax Practitioner Seminar & visit to Barrie Tax Services Office	Barrie
Mar. 2, 2013	Service Information Fair	Willowdale
Mar. 21, 2013	Tax Practitioner Seminar sponsored by the Tax Executives Institute - Toronto Chapter	Toronto

As part of our outreach, we also initiated a new venture aimed at raising awareness through our participation with the online publication *Protégez-vous*. Our Office submitted a number of articles for publication, with topics ranging from tax schemes to the Tax Free Savings Account. Each article also provided readers with information about our Office's services and links to helpful tools from our Web site. The articles were viewed by 92% of the Web site's approximate 162,000 subscribers.

## Media

During the 2012-2013 year, the Office of the Taxpayers' Ombudsman published the *Earning Credits*, *Acting on ATIP*, and *Getting It Right* Special Reports and posted the *Digest of Taxpayer Service Rights* online. The release of these documents were widely covered by the English and French national media alike, and reached over two million individuals through radio and television broadcasts.

Our media coverage is generally positive and provides the Ombudsman a platform to reach Canadians and illustrate how our Office is making a difference for them.

## Web

As the Government of Canada continues to look for new means to deliver programs and services in a digital-driven environment, the Web sites of federal departments and agencies are becoming increasingly popular and effective resources for information.

In 2012-2013, we launched our electronic complaint form, allowing taxpayers to submit the details of their service-related complaint through a secure online application as an alternative to the traditional mail, telephone, and fax methods. In our fifth fiscal year, our Web site received over 135,000 visits.

Public Announcements of Special Reports	
Date	Special Report
April 23, 2012	Digest of Taxpayer Service Rights * potential reach - approximately 400,000
May 7, 2012	Special Report: Earning Credits * potential reach - approximately 30,000
June 6, 2012	Special Report - Acting on ATIP * potential reach - approximately 300,000
Sept. 13, 2012	Special Report: Getting it Right * potential reach - approximately 1,000,000



## BEHIND THE SCENES

### Improving Business Operations

During the 2012-2013 fiscal year, we conducted a preliminary quality assurance project of our investigative unit to determine how well we were meeting our business standards. On the whole we confirmed that our officers are providing optimal service to taxpayers and identified a few administrative best practices to improve our overall performance.

We also continued to enhance our case management system to deliver better reports and better meet the operational needs of our officers.

### Improving Collaboration

The Government of Canada has shown a commitment to providing fair treatment to those who access government programs and services by instituting Ombudsmen and their related offices to ensure fairness and transparency in the administration of services. While the mandates of each ombudsman office vary according to the department or agency they oversee, there are sufficient commonalities to warrant a regular exchange of information and ideas on best practices, challenges, and potential directions for the future.

A number of our organizations have been and are in contact with one another in the sharing of best practices, knowledge, and ombuds tools. These interactions have proven to be beneficial. As a result, our Office took on a leading role in building an Ombudsman Community of Practice and an online wiki website to help facilitate the inter-departmental sharing of best practices.

### Legislative Obligations

The Office of the Taxpayers' Ombudsman is subject to a number of legislative obligations including the *Official Languages Act*, the *Access to information Act*, the *Privacy Act*, and the *Canada Labour Code*. On an ongoing basis, our Office ensures that we are complying with all legislative requirements, and provides awareness sessions to our staff on their roles in ensuring consistent compliance.

### Financial Resources

Expenditures	2011-2012 (\$000)	2012-2013 (\$000)
Salaries	1,834	1,872
Training and Education	18	60
Professional Services	47	12
Information Technology Services	35	27
Travel	41	21
Office Equipment	19	9
Printing and Publishing	20	19
Telecommunications	25	-
Office Expenses	22	19
<b>Total Annual Operating Expenses</b>	<b>2,061</b>	<b>2,039</b>

## HOW TO CONTACT US

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You can contact the Office of the Taxpayers' Ombudsman by:

- calling us toll-free at **1-866-586-3839** within Canada and the United States.

If you are outside of Canada and the United States, please call collect at 613-946-2310. Our office hours are 8:15 a.m. to 4:30 p.m. EST, Monday to Friday (except holidays)

- visiting our Web site at **[www.oto-boc.gc.ca](http://www.oto-boc.gc.ca)** and completing our complaint form describing your situation, submitting it online, or mailing or faxing it with any supporting documents to:

**Office of the Taxpayers' Ombudsman  
50 O'Connor Street, Suite 724  
Ottawa ON K1P 6L2  
Canada**

Fax: **613-941-6319**

Toll-free fax: **1-866-586-3855**

- making an appointment for an in-person meeting by calling us during our regular office hours