



Perspectives

Promoting service, fairness, and accountability

Issue 3, August 2013



Welcome to our third issue of *Perspectives*. This issue highlights my Office's role in the recent addition of Article 16 to the [Taxpayer Bill of Rights](#) that addresses the fear of reprisal from the Canada Revenue Agency (CRA).

A fear to invoke taxpayer rights to which you are entitled from your government is an issue that **cannot** go unaddressed.

I trust that Article 16 will provide Canadians with the confidence they need to demand the professional service and fair treatment they should receive from the CRA.

J. Paul Dubé, Taxpayers' Ombudsman



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 our 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 us 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 us to publish our service standards and report annually.
14. You have the right to expect us 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.

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The fear of reprisal from the Canada Revenue Agency (CRA) has the potential to undermine trust and confidence in the tax system. When a taxpayer fears reprisal, it hinders their willingness to request what they may be entitled to or to obtain assistance that they may require. For taxpayers, not getting what they should from the CRA may cause them to mistrust, or even resent, the tax system, thereby diminishing the degree to which they comply with it.

Taxpayer rights in Canada have been steadily evolving since the announcement of the *Declaration of Taxpayer Rights* in 1985. Major milestones have included the addition of eight service rights to the Taxpayer Bill of Rights in 2007, and the appointment of the first Taxpayers' Ombudsman in 2008.

As taxpayers, Canadians have the right "to a formal review," as stated in Article 4, and the right "to lodge a service complaint and to be provided with an explanation of [the CRA's] findings," as stated in Article 9 of the Taxpayer Bill of Rights. Both of these articles are taxpayer rights; that is, they entitle taxpayers to appropriate standards of service and fairness in their interactions with the CRA. Yet, even though these rights are clearly outlined, taxpayers often express a fear of retribution by the CRA if they invoke them.

Since the Office of the Taxpayers' Ombudsman was established (OTO) in 2008, it has heard rumblings of reluctance among Canadians to file a complaint with the CRA's Service Complaints program or the OTO because they have feared that doing so might result in harsh treatment from the CRA. Whether or not this fear is

justified, it is very real and is preventing taxpayers from invoking their rights when they feel they have been treated unfairly by the CRA. The Taxpayers' Ombudsman recognized that this issue was of genuine concern and that corrective action had to be taken.

[...] we have never seen or heard of a taxpayer actually experiencing punitive treatment from the CRA as a result of having filed a service complaint or alleging unfair treatment.

J. Paul Dubé,
Taxpayers' Ombudsman

The mandate of the Taxpayers' Ombudsman is to assist, inform, and advise the Minister of National Revenue about any matter relating to service provided to taxpayers by the CRA. In 2012, the Taxpayers' Ombudsman brought the issue of fear of reprisal to the attention of the Minister of National Revenue, following feedback from taxpayers and tax professionals across the country. The Taxpayers' Ombudsman subsequently recommended that the Taxpayer Bill of Rights include an additional right to address this fear and further protect Canadians.

The Minister of National Revenue accepted the recommendation of the Taxpayers' Ombudsman, directing the CRA to create a new right that would provide assurance to Canadians that lodging a service complaint or requesting a formal review would not lead to biased treatment by the CRA in the future.

As a result, this summer saw the establishment of the next major

milestone for taxpayer rights with an amendment to the Taxpayer Bill of Rights to include Article 16: **"the right to lodge a service complaint and request a formal review without fear of reprisal [from the CRA]."** On June 26, 2013, the Taxpayers' Ombudsman and the Minister of National Revenue [jointly announced this amendment](#), responding to existing fears of reprisal amongst Canadians when submitting a complaint about the service or treatment provided by the CRA.

This right means that if you lodge a service complaint and request a formal review of a CRA decision, you can be confident that the CRA will treat you impartially, and that you will receive the benefits, credits, and refunds to which you are entitled, and pay no more and no less than what is required by law. You should not fear reprisal.

[Taxpayer Bill of Rights Guide:
Understanding Your Rights
as a Taxpayer](#)

With the addition of Article 16, the Taxpayer Bill of Rights now encompasses sixteen statutory and service rights that govern the relationship between the taxpayer and the CRA. While the mandate of the Taxpayers' Ombudsman is to ensure that the CRA respects the eight service rights found within the Taxpayer Bill of Rights, the OTO will continue to raise awareness of the existence of this document among Canadians, reassuring them that their taxpayer rights are meaningful and that there is no price to pay for invoking them.

MAKING A DIFFERENCE

In July 2009, after filing her personal income tax return, Ms. A received a Notice of Assessment (NOA) along with a \$3,080.85 refund. The large refund was unexpected; therefore, Ms. A reviewed the NOA. The CRA had amended her return, causing in the refund. She did not question the corrections. Subsequently, in January 2011, Ms. A was informed by the CRA that her 2008 income tax return was under review, resulting in her owing the \$3,080.85, plus interest. Ms. A informed the CRA that she would repay the refund amount but felt the interest was not justified, as it was the CRA that had made an error. She was directed to complete a request for interest relief. It took 11 months for the CRA to acknowledge receipt of her request for relief and an additional 10 months for the CRA to make a decision. The CRA eventually informed her that her relief request had been denied and that she was responsible for the accumulated interest. Ms. A repaid the refund along with the interest. She then shared her story with personal finance columnist Ellen Roseman, who directed her to the Taxpayers' Ombudsman. The Office of the Taxpayers' Ombudsman reviewed Ms. A's complaint and referred it to the CRA. Within a few days, the CRA contacted her, informing her that it would look into her case. Six weeks later, the taxpayer received a letter from the CRA indicating it would refund all interest paid.



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