



# Tax Court of Canada

## Performance Report

For the period ending  
March 31, 2002

Canada

## The Estimates Documents

Each year, the government prepares Estimates in support of its request to Parliament for authority to spend public monies. This request is formalized through the tabling of appropriation bills in Parliament.

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

The Estimates, along with the Minister of Finance's Budget, reflect the government's annual budget planning and resource allocation priorities. In combination with the subsequent reporting of financial results in the Public Accounts and of accomplishments achieved in Departmental Performance Reports, this material helps Parliament hold the government to account for the allocation and management of funds.

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## Foreword

In the spring of 2000, the President of the Treasury Board tabled in Parliament the document “Results for Canadians: A Management Framework for the Government of Canada”. This document sets a clear agenda for improving and modernising management practices in federal departments and agencies.

Four key management commitments form the basis for this vision of how the Government will deliver their services and benefits to Canadians in the new millennium. In this vision, departments and agencies recognise that they exist to serve Canadians and that a “citizen focus” shapes all activities, programs and services. This vision commits the Government of Canada to manage its business by the highest public service values. Responsible spending means spending wisely on the things that matter to Canadians. And finally, this vision sets a clear focus on results – the impact and effects of programs.

Departmental performance reports play a key role in the cycle of planning, monitoring, evaluating, and reporting of results through ministers to Parliament and citizens. Departments and agencies are encouraged to prepare their reports following certain principles. Based on these principles, an effective report provides a coherent and balanced picture of performance that is brief and to the point. It focuses on outcomes - benefits to Canadians and Canadian society - and describes the contribution the organisation has made toward those outcomes. It sets the department’s performance in context and discusses risks and challenges faced by the organisation in delivering its commitments. The report also associates performance with earlier commitments as well as achievements realised in partnership with other governmental and non-governmental organisations. Supporting the need for responsible spending, it links resources to results. Finally, the report is credible because it substantiates the performance information with appropriate methodologies and relevant data.

In performance reports, departments and agencies strive to respond to the ongoing and evolving information needs of parliamentarians and Canadians. The input of parliamentarians and other readers can do much to improve these reports over time. The reader is encouraged to assess the performance of the organisation according to the principles outlined above, and provide comments to the department or agency that will help it in the next cycle of planning and reporting.

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This report is accessible electronically from the Treasury Board of Canada Secretariat Internet site:  
<http://www.tbs-sct.gc.ca/rma/dpr/dpre.asp>

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**Tax Court  
of Canada**

**Cour canadienne  
de l'impôt**

# **TAX COURT OF CANADA (TCC)**

## **DEPARTMENTAL PERFORMANCE REPORT**

**For the period  
ending  
March 31, 2002**

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The Hon. Martin Cauchon  
Minister of Justice and  
Attorney General of Canada

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## SECTION I: MESSAGE FROM THE REGISTRAR

The Tax Court of Canada has contributed to improving the Canadian judicial system so as to ensure that it meets the needs of today's society, or in other words, that it is modern, accessible, rapid and affordable.

In 2001-2002, we continued to work at constantly improving our services to Canadians. Our actions adhered fully to the management commitments of the federal government.

*Citizen focus.* The results of our most recent client satisfaction survey revealed that our communication products needed improvement in order to demystify the appeal process and the judicial process as a whole. Canadians are now able to access information through our Internet site where they are also able to consult on-line the Court's judgments as well as its sitting schedules and have access to a wider variety of information. To view our Web site, go to <http://www.tcc-cci.gc.ca/>

*Results for Canadians and Respect of Canadian Values.* As Registrar of the Tax Court of Canada, I wish to assure the Canadian people that we are listening to them and that we will spare no effort to provide them with high-quality services and information and with a judicial process that is fair and equitable.

*Responsible Spending.* As part of the Modern Comptrollership function, the Court successfully implemented, in April 2001, the Financial Information System. FIS upgrades the financial side of performance and permits us to closely link the planning, management and reporting of results or outcomes to the timely availability of both financial and non-financial information.

On the eve of its 20th anniversary, the Tax Court of Canada is preparing for one of the most important moments in its history. On March 27, 2002, the *Courts Administration Service Act*, which grants the Tax Court of Canada the status of superior court of record and implements the amalgamation of the corporate and registry services of the Tax Court of Canada and the Federal Court of Canada, passed third reading in the Senate and received Royal Assent. The intent of the *Act* is to improve the efficiency of those courts while enhancing their effectiveness and fully respecting their judicial independence. Obviously, these organizational changes will have a major impact on the Court's organizational structure as well as on its employees' day-to-day work.

Since its creation in 1983, the Court has been able to make a prominent place for itself in the Canadian judicial system because of its great capacity for adapting to change and the excellence of its staff, which is are highly committed to client service. These same qualities will enable us to meet the major challenges awaiting us in the coming months while honouring our commitments to all Canadians.

R.P. Guenette

## **SECTION II: OVERVIEW OF THE COURT**

### **1. Mandate, mission, vision**

#### **a) Mandate**

The Tax Court of Canada has exclusive original jurisdiction to hear and determine references and appeals on matters arising under the *Income Tax Act*, the *Canada Pension Plan*, the *Old Age Security Act*, the *Petroleum and Gas Revenue Tax Act*, the *Unemployment Insurance Act*, the *Employment Insurance Act*, Part IX of the *Excise Tax Act*, the *Cultural Property Export and Import Act*, the *Customs Act* (Part V.1) and, as of March 27, 2002, the *Air Travellers Security Charge Act*. The Court also has exclusive original jurisdiction to hear and determine appeals on matters arising under the *War Veterans Allowance Act* and the *Civilian War-related Benefits Act* as referred to in section 33 of the *Veterans Review and Appeal Board Act*.

#### **b) Mission**

We are committed to providing the public with an accessible and efficient appeal process and to working together to maintain a fair and independent court.

#### **c) Vision**

We would like the Tax Court of Canada to be recognized nationally and internationally as a self-governing and avant-garde body that distinguishes itself by the excellence of its services, its highly skilled work force, the efficiency with which it communicates with its partners, clients and employees, its use of the most advanced technology and the straightforwardness of its rules and procedures.

### **2. Organization of the Court**

The Court, which has its Headquarters in Ottawa, ordinarily consists of the Chief Judge, the Associate Chief Judge, 20 other judges and four supernumerary judges. Presently, there are 3 vacancies on the Court. To ensure that appeals are heard in a timely manner, the Chief Judge may appoint up to 12 deputy judges. There are currently seven deputy judges.

The Chief Judge is responsible for distributing work to the judges and for assigning judges to each sitting of the Court. The Court has regional offices in Montréal, Toronto and Vancouver. It also shares premises with the Federal Court of Canada in Edmonton, Calgary, Winnipeg, Québec, Halifax and Fredericton. The Court may sit in over 65 hearing locations in Canada.

The Registrar, who is a deputy of the Commissioner for Federal Judicial Affairs as a result of a delegation of authority under subsection 76(2) of the *Judges Act*, is the deputy head of the Tax Court of Canada. The Commissioner for Federal Judicial Affairs reports to



the Minister of Justice. The Registrar, as the principal officer of the Court, is responsible for the administration of the Court.

#### **a) Description of the Business Line: the Registry**

The business line structure described below was approved by the Treasury Board under the *Planning, Reporting and Accountability Structure* (PRAS) document.

The objective of our business line is to provide an easily accessible and independent Court for the expeditious disposition of disputes between any person or corporation and the Government of Canada on matters arising under the *Tax Court of Canada Act* or any other legislation under which the Court has original jurisdiction.

In addition to its main business line, the Court has the following three service lines: the Appeals Management Branch, the Corporate Services Branch and the Strategic Planning and Communications Branch.

#### **b) Description of the service lines**

##### **1. Appeals Management Branch**

This service line provides litigants with guidance and advice on Court practices and procedures and provides the judges of the Court with orderly and efficient scheduling of hearings.

##### **2. Corporate Services Branch**

This service line provides the Registry with support in the areas of finance, administration, security, library services, facilities management, human resources and information management/information technology.

##### **3. Strategic Planning and Communications Branch**

This service line provides the Registry with support relating to strategic planning, communications, and editing and revising.

## SECTION III: PERFORMANCE OF THE COURT

### 1. Societal Context

#### a) Objective

To provide an easily accessible and independent Court for the expeditious disposition of disputes between any person and the Government of Canada on matters arising under the *Tax Court of Canada Act* or any other legislation under which the Court has original jurisdiction.

#### b) The Tax Court's Strategic Priorities, the Federal Government's Horizontal Priorities and the Canadian Public

The Tax Court of Canada's program objective revolves around the following four strategic priorities:

- i) to improve the effectiveness of the Court's appeal process;
- ii) to improve public access to the Court and its services;
- iii) to improve service delivery; and
- iv) to ensure the judicial independence of the Court.

These four strategic priorities, which are closely linked to the federal government's horizontal priorities relating to Government On-line and the Service Improvement Initiative, permit us to provide citizen-driven services, measure the concrete results that Canadians obtain from our services and respect the values of our fellow citizens in respect of access to relevant and accessible information and to prompt, fair and equitable justice.

The backdrop to all this is the efficient and responsible use of public money via the gradual and effective implementation of the federal government's Modern Comptrollership initiative, which aims at providing managers with integrated financial and non-financial performance information, a mature approach to risk management, appropriate control systems, and a shared set of values and ethics.

## 2. Results by Strategic Priorities

### **Strategic Priority 1** **To improve the effectiveness of the Court's appeal process**

#### **Electronic Filing Pilot Project**

On September 1, 2001 the Court launched a six-month pilot project involving its on-line filing system. Appeals and applications can now be filed on-line through our Web site. Some of the other documents required in the appeal process are also accepted electronically. However, parties still have to comply with the Tax Court Rules and forward original copies of the documents they file electronically and must continue to do so until those Rules are changed.

In the first six months of our e-filing pilot project, we received a combined total of 75 notices of appeal and applications as well as 152 documents required in the appeal process.

We invited the users of these new functionalities to provide comments and suggestions for improvement. We have reviewed and evaluated the feedback received and are implementing some of the proposed changes. We have extended the duration of our pilot project to take advantage of the increasing amount of feedback coming in and to enable users to use the system more often. We are expecting a sharp increase in the number of documents filed electronically once more users are made aware of our project.

Electronic filing adds a method of communication with the Court. It allows the filing of documents, the provision of responses to inquiries, and the delivery of documents to the Court at any time, regardless of time zones or the hour of the day.

Having a choice in how Canadians deal with the Tax Court of Canada is important. Canadians can be assured that electronic filing will complement, not replace, other methods of interacting with the Court. We want to provide the highest quality service, whether it is in person, over the telephone or on the Internet.

#### **Appeals Management – Statistics**

Over the 2001-2002 fiscal year, 4,490 appeals (see Table 1) were filed with the Tax Court of Canada. This represented a decrease of 332 appeals over the preceding fiscal year, 2000-2001, in which 4,822 appeals were filed. The decrease is mainly in the number of appeals filed under the *Employment Insurance Act*. There seems to be a correlation between the state of the economy and the number of employment insurance appeals filed with the Court.

Table 1 also includes appeals disposed of in 2001-2002. It should be noted that the appeals reported in the “Appeals Disposed of” column may have been filed in 2001-2002 or in earlier fiscal years.

**Table 1 APPEALS FILED AND DISPOSED OF IN 2001-2002**

<b>Appeal Types</b>	<b>Appeals Filed</b>	<b>Appeals Disposed of</b>
Income Tax – Informal Procedure	1615	2078
Income Tax – General Procedure	1123	866
Goods and Services Tax – Informal Procedure	283	356
Goods and Services Tax – General Procedure	214	108
Employment Insurance	967	1073
Canada Pension Plan	280	341
Old Age Security Act	6	8
Petroleum and Gas Revenue Tax Act	0	0
War Veterans Allowance Act	0	0
Civilian War-related Benefits Act and the Veterans Review and Appeal Board Act	0	0
Cultural Property Export and Import Act	1	0
<b>Total</b>	<b>4490</b>	<b>4831</b>

Table 2 indicates the number of months that elapsed between the filing date and the disposition date for all appeals disposed of in 2001-2002.

**Table 2 APPEALS DISPOSED OF IN 2001-2002**

	<b>Disposed of in 2001-2002</b>	<b>Time elapsed between filing date and disposition date</b>			
		<b>Less than 12 months</b>	<b>Between 12 and 24 months</b>	<b>Between 24 and 36 months</b>	<b>More than 36 months</b>
Income Tax – General	866	67 (8%)	252 (29%)	363 (42%)	184 (21%)
Income Tax – Informal	2078	1187 (57%)	462 (22%)	83 (4%)	346 (17%)
GST – General	108	13 (12%)	46 (43%)	39 (36%)	10 (9%)
GST – Informal	356	186 (52%)	131 (37%)	15 (4%)	24 (7%)
Employment Insurance	1073	647 (60%)	328 (31%)	64 (6%)	34 (3%)
Canada Pension Plan	341	244 (72%)	86 (25%)	6 (2%)	5 (1%)

It is important to point out that, excluding general procedure appeals, 59% of all appeals disposed of in 2001-2002 were disposed of within 12 months of their filing date and another 26% were disposed of within 24 months of their filing date. The life cycle for general procedure appeals is longer because the disposition process includes a number of predetermined steps and time limits laid down by the Tax Court of Canada Rules (General Procedure). These formal steps are required due to the usually high complexity of general procedure cases and the significant amounts normally at issue. In 2001-2002, 39% of general procedure appeals disposed of were disposed of within 24 months of their filing date and another 41% within 36 months of their filing date.

### **Service Improvement**

The regular measurement of client satisfaction is one of the most reliable indicators of service level and performance. The Court is conducting a survey to assess the level of client satisfaction with its services, information, facilities, judicial process and Web site. The survey is being conducted among appellants who had appeals disposed of through a hearing in 2001. The results of the survey will be available in late fall 2002.

## **Strategic Priority 2 To improve public access to the Court and its services**

### **Government On-line – the Court's Internet Site**

In 2001 we completed the posting of judgments and reasons for judgment for the November 1997 to December 2001 period and are now publishing judgments as they are filed at the Registry. Judgments were posted to our Internet site in response to a very high demand from our various clients. They can be viewed at: <http://decision.tcc-cci.gc.ca/en/index.html>

In the last quarter of 2001 and at the request of our clients, the Court's sitting schedules were made available on our Internet site. To view the sitting schedules, go to [http://www.tcc-cci.gc.ca/appeals/jsp/PublicReportStarter\\_e.jsp](http://www.tcc-cci.gc.ca/appeals/jsp/PublicReportStarter_e.jsp). In September 2001, the Court's Internet site was modified in accordance to the new "Common Look and Feel" standards published by Treasury Board in June 2000. The new site was well received, as demonstrated by the considerable positive feedback received from our clients. To view the Tax Court of Canada's web site, go to <http://www.tcc-cci.gc.ca/>

In 2001-02, the unit of the Court responsible for communications took the opportunity to diversify the information on our Internet site. Information added includes the history of the Court, reports of public interest such as the Report on Plans and Priorities, the Court's Departmental Performance Report, and information on the Law Clerk Program.

## **Translation of judgements**

Section 20 of the *Official Languages Act* requires that all the Tax Court of Canada's decisions be translated "at the earliest possible time" after being issued. In the past, due to a shortage of funds, a priority system was used to determine which decisions should be translated first, with the result that less significant decisions were to be translated only "as resources permit". As a result of a November 1999 Federal Court of Appeal decision, which was subsequently confirmed by the Supreme Court of Canada on October 12, 2000, the Tax Court of Canada considered it necessary to request sufficient funds to translate all of its decisions. An amount of \$635K was received in 2001-02, which permitted the Tax Court of Canada to translate all decisions issued in the course of the year and all decisions issued between November 1999 and March 2001 that had not previously been translated.

### **Strategic Priority 3 To improve service delivery**

## **Management Practices**

The application of modern comptrollership at the Tax Court of Canada means refining and revisiting some of our management practices. Modern comptrollership is synonymous with improving our management abilities and capabilities. The Tax Court of Canada has been endeavouring to apply the concept of modern comptrollership and will continue these efforts in the coming year. One example of the establishment of the modern comptrollership function is the successful implementation of the Financial Information Strategy (FIS) in 2001-02. FIS involves instituting new accounting policies as well as new financial systems. Training was successfully given to those directly affected, such as finance personnel and responsibility centre managers. The accounting systems were successfully tested and the new accounting policies are being followed as intended.

We are constantly challenging our management philosophy in order to develop and apply a risk management approach in the management of our main business line as well as our service lines. Rigorous stewardship is being applied to safeguard public assets and develop key control systems, including management processes and measures of success. The Court already has a statement of values which are based on respect, professionalism, teamwork and a client-oriented attitude.

The Tax Court of Canada continues to work on improving its strategic planning and decision-making processes by developing operations plans that are closely linked to the achievement of its strategic objectives and that also meet the Government's objectives as described in *Results for Canadians: A Management Framework for the Government of Canada*.

**Strategic Priority 4**  
**To ensure the judicial independence of the Court**

Our most recent client satisfaction survey showed that 55% of respondents considered the judicial process fair and reliable and 59% were satisfied with the level of independence of the judicial process. Further analysis revealed that the results were lower for self-represented litigants of whom 51% perceived the judicial process as being fair and reliable and 52 % felt that the judicial process was independent.

These lower percentages for self-represented litigants confirm comments often made by individuals with experience working with them. It is generally felt that self-represented litigants do not understand the judicial process as well as lawyers. They are often more emotional about their cases and usually have more difficulty reconciling the real merit of their cases with jurisprudence established in similar circumstances.

When evaluating the level of service received, self-represented litigants seem to focus more on end results and not on the appeal process. We believe this is a perception problem and are trying to improve the situation by providing additional information on the appeal process in our communications material.

## APPENDIX I: FINANCIAL PERFORMANCE OF THE COURT

The following tables apply to the Tax Court of Canada. They provide a brief summary of our financial performance.

**Table 1. Summary of Voted Appropriations**

**Table 2. Comparison of Total Planned to Actual Spending in fiscal year 2001-02**

**Table 3. Historical Comparison of Total Planned Spending to Actual Spending**

**Table 4. Revenue**

### **Table 1. Summary of Voted Appropriations**

Financial Requirements by Authority (\$ millions)				
Vote		2001 - 2002		
		Planned Spending	Total Authorities	Actual
	Program Name			
55	Operating Expenditures	9.7	12.2	11.6
(S)	Employee Benefit Plans	1.1	1.1	1.1
	<b>Total Department</b>	<b>10.8</b>	<b>13.3</b>	<b>12.7</b>

Total Authorities are Main Estimates plus Supplementary Estimates plus other authorities granted to the Tax Court of Canada by Parliament.

The difference between the Planned Spending and the Total Authorities amount is mainly due to two Treasury Board Submissions being approved late in the fiscal year. One relates to the additional funds required to hire new judges. The other relates to funding received to translate additional Tax Court of Canada judgments in both official languages.



**Table 2: Comparison of Total Planned to Actual Spending**

Departmental Planned versus Actual Spending (\$ millions - except for FTEs)			
	2001 – 2002		
Registry of the Tax Court of Canada	Planned Spending	Total Authorities	Actual Spending
Full-Time Equivalents (FTEs)	121	-	121
Operating	10.8	13.3	12.7
<b>Total Gross Expenditures</b>	<b>10.8</b>	<b>13.3</b>	<b>12.7</b>
Less: Respendable Revenues	-	-	-
<b>Total Net Expenditures</b>	<b>10.8</b>	<b>13.3</b>	<b>12.7</b>
Other Revenues & Expenditures	-	-	-
Non-Respendable Revenues	(0.6)	(3.5)	(3.5)
Costs of services provided by other Departments	3.9	3.9	3.9
<b>Net cost of the program</b>	<b>14.1</b>	<b>13.7</b>	<b>13.1</b>

Late in fiscal year 2001-02, it was decided that total costs allocated by the Tax Court of Canada for handling Employment Insurance (EI) cases would be expensed against the Employment Insurance account of Canada. Thus, Human Resources Development Canada (HRDC), the department responsible for the EI account, would show an EI expense and the Tax Court would show an equivalent non-respendable revenue item. The large revenue increase this year can be mostly attributed to this factor. This EI revenue item recovered by the Tax Court of Canada from HRDC is internal to the government and is in no way a user fee charged to any non-federal-government entity. It is simply a more accurate reflection of the total cost of running the federal government's EI program.

**Table 3: Historical Comparison of Total Planned Spending to Actual Spending**

Historical Comparison of Departmental Planned versus Actual Spending (\$ millions)					
			2001-02		
Business Line	Actual 1999 - 2000	Actual 2000 - 2001	Planned Spending	Total Authorities	Actual
Registry of the Tax Court of Canada	11.8	12.5	10.8	13.3	12.7
<b>Total</b>	<b>11.8</b>	<b>12.5</b>	<b>10.8</b>	<b>13.3</b>	<b>12.7</b>

**Table 4: Revenue (millions of dollars)**

Non-Respendable Revenues (\$ millions)					
			2001 – 02		
	Actual 1999 - 2000	Actual 2000 - 2001	Planned Revenues	Total Authorities	Actual
Registry of the Tax Court of Canada	0.6	0.6	0.6	0.6	0.6
Unplanned	-	-	-	2.9	2.9
Total	0.6	0.6	0.6	3.5	3.5

**Non-Respendable Revenue Details (\$millions):**

	1999- 2000	2000- 2001	2001- 2002
Recovery of Employment Insurance Costs from Human Resources Development Canada	-	-	2.7
Appeal Fees and Photocopy Charges	0.6	0.6	0.6
Other	-	-	0.2
Total	0.6	0.6	3.5

As explained in Table 2, the large revenue increase this year can be mostly attributed to the EI revenue item recovered by the Tax Court of Canada from HRDC. Further, it should be noted that, due to the conversion of the federal government to accrual accounting in April 2001, certain transactions were improperly coded as expenses in the 2000-01 fiscal year. In order to rectify the problem, a refund of expenditures for the previous year was included as a revenue item for 2001-02. This problem was solely due to the change that occurred in accounting processes and is a one-time non-recurring item.

## **APPENDIX II: OTHER INFORMATION**

### **Contacts for Further Information**

Further information on the strategic planning portion of this document can be obtained by contacting:

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1-800-927-5499

## Legislation Administered by the Tax Court of Canada

The Tax Court of Canada has authority to hear cases on matters arising under the following Acts:

<i>Income Tax Act</i>	R.S.C. 1985, c. 1 (5th Supp.), as amended
<i>Canada Pension Plan</i>	R.S.C. 1985, c. C-8, as amended
<i>Old Age Security Act</i>	R.S.C. 1985, c. O-9, as amended
<i>Petroleum and Gas Revenue Tax Act</i>	R.S.C. 1985, c. P-12, as amended
<i>Unemployment Insurance Act</i> (repealed)	R.S.C. 1985, c. U-1, as amended
<i>Employment Insurance Act</i> (Parts IV and VII)	S.C. 1996, c. 23, as amended
<i>Excise Tax Act</i> (Part IX)	R.S.C. 1985, c. E-15, as amended
<i>Cultural Property Export and Import Act</i>	R.S.C. 1985, c. C-51, as amended
<i>War Veterans Allowance Act</i>	R.S.C. 1985, c. W-3, as amended
<i>Civilian War-related Benefits Act</i>	R.S.C. 1985, c. C-31, as amended
<i>Veterans Review and Appeal Board Act</i>	S.C. 1995, c. 18, as amended
<i>Customs Act</i> (Part V.1)	R.S.C. 1985, c.1 (2nd Supp.), as amended
<i>Air Travellers Security Charge Act</i> (from 27-03-02)	S.C. 2002, c.9, Part 2