



Government
of Canada

Office of the
Taxpayers' Ombudsman

Gouvernement
du Canada

Bureau de l'ombudsman
des contribuables

Office of the Taxpayers' Ombudsman

Digest of Taxpayer Service Rights

“complete, accurate, clear, and timely information
service complaints explanation of findings
professional, courteous, and fair treatment
warning about questionable tax schemes
costs of compliance taken into account”
publish service standards each year

taxpayer bill of rights

Edited by:

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

Canada

Office of the Taxpayers' Ombudsman

50 O'Connor Street, Suite 724

Ottawa, Ontario K1P 6L2

Telephone: 613-946-2310 | Toll-free: 1-866-586-3839

Fax: 613-941-6319 | Toll-free fax: 1-866-586-3855

This publication is also available in electronic format at www.oto-boc.gc.ca



Digest of Taxpayer Service Rights

Table of Contents

ACKNOWLEDGEMENTS	1
INTRODUCTION	3
ABOUT THE TAXPAYERS' OMBUDSMAN	5
Mandate	5
Mission	6
Vision	6
Principles	6
THE TAXPAYER BILL OF RIGHTS	7
TAXPAYER SERVICE RIGHTS	8
<i>Article 5 – You have the right to be treated professionally, courteously, and fairly.</i>	9
The meaning of “professional”	9
The meaning of “courteous”	10
The meaning of “fair”	10
What the CRA says in its Taxpayer Bill of Rights Guide:	11
Similar Provisions in Other Jurisdictions	11
Application (Case Summaries)	17
<i>Article 6 – You have the right to complete, accurate, clear, and timely information.</i>	25
The meaning of “complete”	25
The meaning of “accurate”	25
The meaning of “clear”	25
The meaning of “timely”	25
What the CRA says in its Taxpayer Bill of Rights Guide	25
Similar Provisions in Other Jurisdictions	26
Application (Case Summaries)	28
<i>Article 9 - You have the right to lodge a service complaint and to be provided with an explanation of our findings.</i>	33
The complaint procedure	33
What the CRA says in its Taxpayer Bill of Rights Guide	33
Similar Provisions in Other Jurisdictions	34
Application (Case Summaries)	35
<i>Article 10 - You have the right to have the costs of compliance taken into account when administering tax legislation.</i>	37
What the CRA says in its Taxpayer Bill of Rights Guide	37
Similar Provisions in Other Jurisdictions	38

<i>Article 11 - You have the right to expect us to be accountable.</i>	39
The meaning of “accountability”	39
What the CRA says in its Taxpayer Bill of Rights Guide	39
Similar Provisions in Other Jurisdictions	40
Application (Case Summaries)	40
 <i>Article 13 - You have the right to expect us to publish our service standards and report annually.</i>	43
What the CRA says in its Taxpayer Bill of Rights Guide	43
Application (Case Summaries)	44
 <i>Article 14 - You have the right to expect us to warn you about questionable tax schemes in a timely manner.</i>	45
The meaning of “questionable”	45
What the CRA says in its Taxpayer Bill of Rights Guide	45
Application (Case Summaries)	46
 <i>Article 15 - You have the right to be represented by a person of your choice.</i>	48
What the CRA says in its Taxpayer Bill of Rights Guide	48
Similar Provisions in Other Jurisdictions	50
Application (Case Summaries)	50
 COMMITMENT TO SMALL BUSINESS.....	52

Acknowledgements

I would like to thank the following people without whose contribution this Digest, and the results summarized herein, would not have been possible:

The entire team at the Office of the Taxpayers' Ombudsman.

The Management and staff of the CRA's Ombudsman Liaison Office.

Also, a special thanks to Justin Glinski, Student-at-Law, for his research and assistance with themes and content.

J. Paul Dubé
Taxpayers' Ombudsman

Introduction

The majority of Canadians are not experts in taxation matters yet they are obligated by law to file accurate and timely income tax reports. Under Canada's self-assessment tax system, taxpayers¹ therefore require assistance from the Canada Revenue Agency (CRA) in many forms and in many contexts. Service from the CRA involves assisting taxpayers by providing the tools and information necessary to comply with tax obligations as well as claim benefits.

The purpose of the Digest is to help raise awareness and understanding of taxpayer service rights and the role of the Taxpayers' Ombudsman.

"Service to taxpayers" includes the performance of duties such as providing tools, information, opportunities, and assistance to taxpayers, as well as the conduct of activities related to program delivery, verification, and enforcement.²

The Taxpayer Bill of Rights is a set of fifteen rights that govern the relationship between taxpayers and the CRA. It is intended to help citizens understand what they can expect in their dealings with the CRA and to make the CRA more accountable to them. The Taxpayer Bill of Rights applies to everyone dealing with the CRA, whether as individual taxpayers, benefit recipients, or corporations.

Within the Taxpayer Bill of Rights are eight "service rights" which entitle taxpayers to appropriate standards of service and fairness in their interactions with the CRA. These service rights mean that taxpayers have:

- The right to be treated professionally, courteously and fairly.
- The right to receive complete, accurate, clear and timely information from the CRA.
- The right to lodge a service complaint and to receive an explanation of the CRA's findings.
- The right to have the costs of compliance taken into account when tax legislation is administered.
- The right to expect the CRA to be accountable.
- The right to expect the CRA to publish service standards and to report annually.
- The right to expect the CRA to warn them about questionable tax schemes in a timely manner.
- The right to be represented by a person of their choice.

¹ "Taxpayer" means a person who, under the program legislation, is liable to pay tax, is eligible to receive an amount as a benefit, or is provided a service by the Canada Revenue Agency (Order in Council – PC 2007-0828)

² Message from former CRA Commissioner William Baker

However, rights do not afford maximum protection without awareness, oversight, and redress. To that end, the Taxpayers' Ombudsman was appointed with a mandate to uphold the service rights within the Taxpayer Bill of Rights and act as the final redress mechanism for taxpayers, benefit recipients, or businesses who feel they have been treated unfairly or in an unprofessional manner by the CRA.

In other words, the Taxpayers' Ombudsman is responsible for ensuring that the CRA respects the service rights contained in the Taxpayer Bill of Rights. All evaluations of the CRA's professionalism and fairness, whether in the context of individual complaints or systemic issues, are based on the criteria contained in those eight rights. They are the foundation for any investigation carried out by the Office of the Taxpayers' Ombudsman (OTO).

The OTO aims to resolve complaints impartially, informally and as quickly as possible. If the OTO cannot assist with a particular complaint, its personnel will explain why and propose other avenues for resolving the matter.

The Ombudsman cannot override the decisions of the CRA, nor issue directions to its staff. Instead, the Ombudsman seeks to resolve disputes through consultation and negotiation, and if necessary, by making formal recommendations to the Minister of National Revenue.

Since the appointment of the first Taxpayers' Ombudsman in 2008, the OTO has assisted in resolving many thousands of individual complaints, and brought about significant improvements in the CRA's service to, and treatment of, taxpayers and benefit recipients.

The purpose of this Digest of Taxpayer Service Rights (the Digest) is to help raise awareness and understanding of taxpayer service rights and the role of the Taxpayers' Ombudsman. This Digest will demonstrate to all stakeholders the importance of those service rights and how the intervention of the Taxpayers' Ombudsman can make a significant difference for taxpayers whose service or treatment from the CRA does not conform to those service rights. It is hoped that this Digest will also serve as a valuable resource for those wishing to understand the Ombudsman's mandate and the Ombudsman's role in upholding service rights. Knowing how taxpayer service rights have been interpreted by the Ombudsman and the CRA, and knowing what kind of complaints the OTO reviews will help taxpayers properly direct their complaints. It will also provide the CRA with an informative compendium of the types of service and fairness issues taxpayers face.

Despite the CRA's efforts to maintain high standards of service, there are still taxpayers who feel they are being treated unfairly by the CRA. The vast

majority of the service complaints we investigate are not the result of CRA employees being intentionally unprofessional or unfair. More often they are the result of a policy or rule that, when applied universally, can result in unfairness in certain contexts. We have observed that the complexity of the rules and regulations that CRA personnel must administer - while processing millions of transactions every year - sometimes affects their ability to respond in a timely and consistent manner. A lack of timeliness or consistency by the CRA can often lead taxpayers to feel they are not being treated fairly. Those are just some of the service deficiencies that the Taxpayer Bill of Rights was intended to address. This Digest will illustrate what those rights mean and how the Taxpayers' Ombudsman works to uphold them.

About the Taxpayers' Ombudsman

What is an ombudsman?

An ombudsman is an independent and impartial officer who deals with complaints about an organization or agency, whether private or public. Typically these complaints involve issues that the organization or agency has been unable or unwilling to resolve to the complainant's satisfaction. Because complaints to an ombudsman are confidential, he or she may hear about issues that the organization is not aware of.

ombudsman/ombudsperson / 1 an official appointed by a government to investigate individuals' complaints against public authorities, etc. [Swedish, = legal representative] - Canadian Oxford Dictionary

By reviewing a complaint impartially, an ombudsman assesses whether a complaint has merit and advises the parties involved. In many instances, the decisions or actions of the organization will be found to be without fault. Where a complaint is found to have merit, the ombudsman seeks to resolve the dispute at the lowest level possible. When necessary, the ombudsman makes recommendations on how to resolve the matter and how to prevent it from reoccurring.

Generally, when an ombudsman makes recommendations, they are not binding. The ombudsman is not empowered to tell those who govern what to do. Rather, results are achieved through the sharing of the ombudsman's judgment about whether or not the organization is acting in a fair and reasonable manner. An ombudsman's effectiveness is dependant on using moral suasion to convince the organization that the recommendations are sound, reasonable, and should be implemented.

Moral suasion is exercised through discussion, mediation, and when necessary, publicity. The power to report has been called the ultimate sanction of the ombudsman. Shining a light on a problem by issuing a public report allows the ombudsman to generate a public debate and marshal support for recommendations.

Mandate

The Taxpayers' Ombudsman was appointed to support the priorities of stronger democratic institutions, increased transparency, and the fair treatment of all Canadians.

The mandate of the Taxpayers' Ombudsman is discharged by reviewing service complaints from taxpayers about the CRA, informing Canadians about their rights as taxpayers, promoting conformity with the Taxpayer Bill of Rights, and identifying and reviewing systemic and emerging issues related to service matters. Where the complaint is found to have merit, or be indicative of a systemic problem that may negatively affect stakeholders, the ombudsman typically makes recommendations to correct the problem with a view to preventing reoccurrence.

Mission

Our mission is to enhance the CRA's accountability in its service to and treatment of taxpayers and benefit recipients through independent and impartial reviews of individual complaints and systemic and emerging service-related issues.

Vision

To be recognized for our expertise in promoting fairness and for our value in helping the CRA provide the highest level of service.

Principles

In fulfilling the Ombudsman's mandate, the OTO is guided by four key principles:

1. **Independence** – Operating at arms length from the CRA.
2. **Impartiality** – Considering the position and the perspective of both the taxpayer and the CRA. Being neither an advocate for the taxpayer nor a defender of the CRA.
3. **Fairness** – Acting with equity and justice.
4. **Confidentiality** – Holding all communication with those seeking assistance in strict confidence and not disclosing confidential communication unless given permission to do so by the affected parties.

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.*

**Service rights upheld by the Taxpayers' Ombudsman*

Taxpayer Service Rights

The Taxpayer Bill of Rights is a set of fifteen rights, eight of which are service rights that entitle taxpayers to expect professionalism, accountability, and fairness from the CRA. The Taxpayers' Ombudsman is responsible for upholding those eight service rights.

Canadians contact the OTO for many reasons and with many different needs. We often provide valuable assistance even when not presented with complaints. We regularly assist taxpayers by putting them in touch with the CRA or another government department when necessary. We also help them by informing them of their taxpayer service rights or assisting with access to redress mechanisms within the CRA when appropriate.

When taxpayers who have exhausted the CRA's redress mechanisms come to us with a problem that falls within our mandate, we always seek to resolve the problem at the lowest level possible and as quickly as possible. This may involve asking the CRA to provide specific information or assistance to the taxpayer. It may involve providing information or feedback to the CRA with respect to a particular taxpayer that causes it to rethink its position. However, if we cannot achieve a quick and simple resolution with the CRA, we will undertake a complaint investigation.

Our intervention in many cases has led to a variety of corrective responses by the CRA, ranging from apologies to taxpayers, to the release of seized bank accounts, the payment of benefits or refunds, or changes to CRA policies or procedures.

The case summaries included in this Digest are intended to illustrate how Taxpayer service rights have been interpreted and applied by the OTO or the CRA. Although they do not contain all the facts of the case, we strive to include all the facts relevant to the assessment of whether the taxpayer was treated fairly.

Article 5 – You have the right to be treated professionally, courteously, and fairly.

The role of an Ombudsman is to be a type of early-warning system so that small problems can be solved before they become big problems. By receiving and analyzing complaints about CRA service, by consulting stakeholders, and by conducting research, the Taxpayers' Ombudsman is well-positioned to help resolve disputes as well as act as an agent of positive change by identifying systemic issues and providing recommendations on how they should be addressed. In carrying out this important mandate, the Taxpayers' Ombudsman is helping the CRA provide the best service and fairest treatment possible to Canadians. In carrying out this important mandate, the Taxpayers' Ombudsman is helping the CRA provide the service and treatment Canadians are entitled to.

I. Professional

The meaning of “professional”

“by skilled or qualified people” (Cambridge Online Dictionary)
“of, engaged in, or worthy of the high standards of a profession”
(YourDictionary.com)

The term professional refers to particular skills or qualifications. A professional is someone who provides specialized information within their chosen field. Taxpayers expect that the representatives of the CRA they encounter will be sufficiently knowledgeable and skilled to fulfill the responsibilities of their positions. The CRA is responsible for maintaining a staff of “professionals” that will be able to assist, analyse, investigate and respond to queries in a manner that meets the needs of taxpayers and to demonstrate the high level of service that the CRA has committed itself to providing. Professionalism and commitment to service should be the basis of all interactions between the CRA and taxpayers.

The areas in which taxpayers rely upon the CRA to provide professional service include, but are not limited to, the following:

- Administration of policies and legislation
- Processing documents
- Providing information
- Rulings

II. Courteous

The meaning of “courteous”

“polite and respectful; well-mannered” (Cambridge Online Dictionary)

Taxpayers have the right to courteous service from the CRA. That includes service that is sensitive to the diverse nature of Canadian communities. Diversity is a concept that is constitutionally entrenched within section 15 of the *Canadian Charter of Rights and Freedoms* and should thereby be embraced by government organizations. Similarly, Canadians have a right to interact with the CRA free from discrimination, harassment, or otherwise rude comments. Officials are expected to be understanding of the people that they are dealing with.

Simply put, whether the CRA is providing information or conducting compliance and enforcement procedures, taxpayers have the right to expect to be treated respectfully.

III. Fair

The meaning of “fair”

“If you do something fairly, you do it in a way which is right and reasonable and treats people equally” (Cambridge Online Dictionary)

Under Canada’s self-assessment tax system, taxpayers are obligated to register when required, file complete and accurate tax returns on time, and pay amounts that are due on time.

Citizens are less apt to feel committed to authorities and government rules and regulations if the procedures associated with them are considered to be unfair. That means that Canadians are likely to have less trust and confidence in the tax system if they feel that the CRA treats them unfairly or in an arbitrary manner. Less trust in the tax system discourages full participation and may contribute to disputes, litigation, decreased compliance, and increased activity in the underground economy. These problems cost the CRA, the federal government, and ultimately all Canadians, time, energy and money.

On the other hand, people feel affirmed if the procedures to which they are subject to treat them with the fairness, respect, and dignity they feel they deserve. Receiving such treatment even makes it easier to accept a disappointing outcome. Improvements to the service provided by the CRA,

and an increased perception among taxpayers that the CRA is fair, will increase taxpayer trust and confidence as well as reduce conflicts.³

That is why procedural fairness is in the interest of all stakeholders in the tax administration system.

What the CRA says in its Taxpayer Bill of Rights Guide⁴:

5. You have the right to be treated professionally, courteously, and fairly

You can expect we will treat you courteously and with consideration at all times, including when we ask for information or arrange interviews and audits. Integrity, professionalism, respect, and co-operation are our core values and reflect our commitment to giving you the best possible service. You can also expect us to listen to you and to take your circumstances into account, which is part of the process of making impartial decisions according to the law. We will then explain our decision and inform you about your rights and obligations regarding that decision.

Similar Provisions in Other Jurisdictions

Australia

In Australia the Taxpayers' Charter⁵ entitles taxpayers to expect to be treated fairly and reasonably; to be treated as honest; and to receive professional assistance. The Australian Charter reads as follows:

Treating you fairly and reasonably

We will:

- treat you with courtesy, consideration and respect
- behave with integrity and honesty
- act impartially
- respect and be sensitive to the diversity of the Australian community
- make fair and equitable decisions in accordance with the law
- resolve your concerns, problems or complaints fairly and as

³ It should be noted that procedures are not universally fair in all circumstances. Rather, procedural fairness must fit the circumstances of the situation.

⁴ <http://www.cra-arc.gc.ca/E/pub/tg/rc17/README.html>

⁵ <http://www.ato.gov.au/corporate/pathway.aspx?pc=001/001/002/017>

quickly as possible

Making fair and equitable decisions

We apply the law consistently when we make a decision about your affairs. However, we listen to you and will take your circumstances into account if they are relevant to the decision and the law allows us to.

Offering you professional service and assistance

To do this, we:

- help you understand your rights and entitlements in our dealings with you
- give you our names
- give you contact details so you can get further information if you need it, but if you have a more complex query, we put you in contact with someone who can help you
- get back to you when we say we will, but if we cannot help you immediately, we take your contact details and get back to you as soon as possible
- aim to provide timely responses to your enquiries and requests
- apologize for our mistakes and fix them as quickly as possible
- try to use plain and clear language in our published information and when we speak or write to you
- provide some of our information in languages other than English on our website (refer to Information in other languages)
- provide advice and information in a way that meets your needs where possible, including access to services such as the Translating and Interpreting Service, the National Relay Service (for people who are deaf, or have a hearing or speech impairment) and the Aboriginal and Islander centre

The United Kingdom

In the United Kingdom, HM Revenue & Customs has issued “Your Charter”⁶ which outlines the rights of UK taxpayers. It includes the right to be treated as honest, the right to be treated even-handedly, and the right to be dealt with professionally and with integrity. The Charter tells UK taxpayers that the Revenue Department will:

⁶ <http://www.hmrc.gov.uk/charter>

3 Treat you as honest

We know that the great majority of people want to get things right. Unless we have a good reason not to, we will:

- presume you are telling us the truth
- accept that you will pay what you owe and only claim what you are entitled to
- explain why we need to ask you questions and why we have decided to check your records
- only question what you tell us if we have good reason to

4 Treat you even-handedly

We will be even-handed in the way we deal with you. We will take into account your circumstances and provide a consistent service. If you need help we will also give you the appropriate support so you can meet your obligations. We will:

- act within the law and our published guidance
- help you understand your legal rights
- explain what you can do if you disagree with our decisions or want to make a complaint
- provide you with information in a way that meets your particular needs
- consider any financial difficulties you may be having

5 Be professional and act with integrity

Whenever you deal with us we will take responsibility for our actions and behave in a professional way. We will:

- act with integrity
- make sure that you are dealt with by people who have the right level of expertise
- make decisions in accordance with the law and published guidance and explain them clearly to you
- respond to your enquiries and resolve any problems as soon as we can
- let you know how appeals, investigations or complaints are progressing

British Columbia

British Columbia's Ministry of Small Business and Revenue has issued a "Taxpayer Fairness and Service Code"⁷ which includes the right to courtesy and respect, the right to fair treatment, and the right to obtain help. It says:

⁷ <http://www.sbr.gov.bc.ca/msbr/tfsc/tfsc.htm>

The right to courtesy and respect

You have the right to professional and courteous treatment, such as:

- properly identifying ourselves
- identifying the reason we are contacting you
- being respectful in our interactions with you
- listening to your concerns
- responding to your requests in a timely manner
- making sure you are able to contact the person who will give you the assistance you need

The right to fair treatment

You have the right to expect we will apply the law fairly and impartially. Treating you fairly includes:

- acting honestly
- making just, fair and timely decisions in accordance with the law by taking into account all circumstances relevant to the decisions we are making
- expecting you to pay only the amount required by law
- consistently applying penalty and interest policies when obligations have not been met
- giving you the opportunity to voluntarily disclose and correct a tax liability without being penalized or prosecuted, when specific conditions are met
- abiding by written advice, in the form of a tax ruling or interpretation letter requested by you, that is specifically applicable to your circumstances as disclosed and in accordance with the law
- listening to you and giving you the opportunity to provide information and evidence to support your position, so we may understand all of the circumstances involved
- acknowledging any errors we may have made and correcting them in a timely manner

The BC Code goes on to provide examples of how fair treatment will be maintained:

The right to understand the business we conduct with you

You have the right to expect us to clearly explain the steps we will follow when working with you. We rely on our customers voluntarily complying with their obligations. Therefore, to ensure fairness, we undertake a variety of activities to promote

voluntary compliance by everyone.

Documentation reviews

In some cases, we may review documentation (e.g. a tax return) you have submitted to the ministry or we may contact you further to verify other information. If this review determines that you owe additional amounts, you have the right to be informed in writing of the amount owed and to request an explanation of how it was determined.

Audits

We conduct audits to ensure the law is applied fairly and to provide information about compliance.

If you have been selected for an audit, you or your representative can expect us to follow these steps:

- Before the audit, we will contact you if we need to meet and/or have access to your records.
- At the start of the audit, we will explain the audit process and review your rights under the Taxpayer Fairness and Service Code at your premises or representative's office.
- During the audit, we will review your records, including electronic records where applicable, and be willing to discuss issues of interpretation that arise from the audit.
- We will work with you to ensure the audit is completed in a timely manner, taking into consideration your business needs.
- If you have any concerns, we will work with you to resolve them as quickly as possible.
- We will safeguard your records without compromise.
- We will notify you of any refund entitlement discovered during an audit.
- When the audit is complete, we will review and explain the results with you, notify you if an amount is owed and make you aware of your options if you disagree with the results. If needed, you will be given a reasonable time period to review the results before an assessment is finalized.
- If you provide more information after the audit, we will review it to determine if an adjustment to the amount owed is needed.

Collections

When amounts due to government are not paid, we will take steps to collect amounts owed. This deters customers who

might otherwise avoid paying and increases voluntary compliance. We act quickly when amounts are not paid on time to ensure that government has the money required to fund public services.

If you have not paid amounts you owe by the due date, you can expect us to follow these steps:

- notify you in writing of the amount owed
- notify you in writing of our intent to take collection action to recover the amount owed
- initiate collection action to recover the amount owed

If there are reasons beyond your control that have caused you to miss a payment deadline, we will consider them. For example, interest and penalties may be waived in whole or in part because of an extraordinary circumstance (e.g. a postal strike) that has prevented you from meeting your obligations on time.

You can request a delay in collection action if an amount owed is under appeal to the minister and security has been provided in respect of the amount under dispute.

Refunds

You have the right to request a refund if you believe that you have overpaid the tax.

Once we have received your request with full and accurate information to support your claim, we will review it and provide a refund if allowed by law. If a refund is not given when requested, we will provide you with a notification of our reasons. We will process refund payments in a timely manner.

Alberta

The Alberta Tax and Revenue Administration has a “Fairness and Service Pledge”⁸ which includes the right to Fair Treatment and Courtesy, Respect, and Integrity.

⁸ http://www.finance.alberta.ca/publications/tax_rebates/fairness_service_pledge.pdf

Application (Case Summaries)

Fair treatment – individual complaint – application for Taxpayer Relief due to exceptional circumstances – applications for GST and income tax accounts contained same facts but reviewed separately – CRA granted one request but not the other

5:001 A retired man suffering from an inoperable brain tumor lost many of his tax records in a house fire in 2005. As a result, he did not file his taxes on time. The CRA imposed penalties and interest on the taxpayer's personal income tax account as well as his goods and services tax (GST) account. He applied for relief under the *Income Tax Act*, asking that he be absolved of these penalties and interest due to the exceptional circumstances and hardships that led to them. The applications for income tax and GST relief were processed in two different tax offices. Although the same evidence was considered by both offices while applying the same test, one granted relief while the other indicated that his circumstances did not warrant any relief under the provision of the *Income Tax Act*. The Ombudsman reviewed this case and questioned the apparent lack of fairness in the outcome of the taxpayer's request for relief. As a result of the OTO's intervention, the CRA granted the man's request and cancelled the penalties and interest on both accounts.

Professional treatment – fair treatment - individual complaint – systemic issue - misallocation of payment by CRA – collection activity resulted

5:002 A taxpayer participated in the Voluntary Disclosure Program (under which taxpayers may avoid penalties by disclosing information not previously reported to the CRA), and had penalties and interest on a GST account cancelled. He then submitted a payment against the balance owing on that account, but the CRA applied the payment to a different account. As a result, the CRA commenced collection activities to collect the debt and seized the taxpayer's bank account. The taxpayer was unable to find out from the CRA where his payment had gone. He complained about being transferred from one collection agent to another as he tried in vain to find out what had happened to his payment. Our investigation revealed that although a cancellation of the penalties and interest had been approved by the Voluntary Disclosure Program, the cancellation had not been recorded in his account. Furthermore, the GST payment had been applied to a previous GST account rather than the current account. Following the intervention of the Ombudsman, the CRA waived the penalties and interest which brought to an end an ordeal that the taxpayer described as stressful and confusing.

Professional service – fair treatment - individual complaint – unreasonable terms tax debt repayment

5:003 The CRA seized shares belonging to a taxpayer and advised that if his tax debt was not paid within 30 days, the shares would be sold. The taxpayer claimed that it would be impossible for him to meet the CRA's demands. He requested a Statement of Account from the CRA but he did not receive one in a timely fashion. The taxpayer was also unable to contact the appropriate CRA collections manager. Once the OTO got involved, the taxpayer received the information he required.

Professional service – fair treatment – individual complaint - homeless person facing hardship in repaying tax debt – reduction in monthly payment

5:004 A taxpayer claiming to be homeless, and forced to borrow money to pay for daily necessities, asked the Ombudsman for assistance with the CRA. His benefits and income tax refunds were being applied against an outstanding government debt. Claiming financial hardship, the taxpayer had asked the CRA to release his benefits and refunds and to reduce the amount of his monthly payment on the debt. Upon review of his situation the CRA determined that no financial hardship existed and denied his request. The taxpayer later realized that he had forgotten to provide the details of other debts that might have had an impact on the CRA's original decision. Since he claimed that the CRA would not provide him with clear information on how to request a secondary review of his situation, the OTO facilitated contact between the taxpayer and the CRA. This led to the CRA reviewing the new information provided by the taxpayer and determining that there was indeed financial hardship. As a result, the CRA agreed to release the taxpayer's funds and negotiated a reduction in his monthly payment.

Fair treatment – individual complaint – taxpayer facing hardship due to difficult financial situation – manageable payment terms negotiated with CRA

5:005 A taxpayer who had been audited disagreed with the conclusions of the CRA's audit. She claimed she had been taxed on income that she never received. She made several unsuccessful attempts to convince the CRA that the audit findings were incorrect. The CRA imposed penalties and interest on the amount assessed. The taxpayer protested that the amount owing was both incorrect and beyond her ability to pay. The CRA initiated collection action against her. The taxpayer claimed that the stressful situation, which had gone on for nearly a decade, was affecting her health. The Ombudsman's review concluded that the woman would have great difficulty in paying the debt even if the assessed amount were correct (the correctness

of the audit is not within the scope of the Ombudsman's mandate). The OTO arranged a meeting between the taxpayer and CRA officials so the audit findings could be explained in detail and a feasible payment plan worked out with the taxpayer. The taxpayer was relieved to finally understand her tax situation, and to have a payment plan that would not result in hardship.

Fair treatment – difficulty proving marital status – CRA not accepting documentary evidence – onerous and unclear burden of proof

5:006 A woman who had separated from her husband was living on minimum wage and relying on tax credits to make ends meet. She advised the CRA of her change in marital status in 2006 in order to receive increased Canada Child Tax Benefits (CCTB) and other family benefits. In 2008, after paying the increased benefits for two years, the CRA requested proof of the taxpayer's marital status. She provided the CRA with a copy of her new lease without the former spouse's name, utility bills in her name only, the phone number of her former spouse and a letter from the mother of the former spouse stating that her son resided with her. The CRA did not accept these documents as proof of a change in marital status, reversed her marital status change to 'married' and requested a repayment of \$4,200 in overpayments of CCTB and other family benefits. When she contacted the CRA to ask what additional documents she could provide to prove her marital status, the CRA asked her to obtain a copy of her former spouse's tax return. She contacted the OTO distraught as she did not have access to that information and didn't know what to do. As a result of the Ombudsman's intervention, the CRA did eventually recognize the change in marital status, reverted her marital status to 'single', and issued a payment of \$1,500 to the taxpayer. Additionally, as a result of the increased scrutiny of this file caused by the Ombudsman's review, the CRA recognized that the taxpayer was actually eligible to claim for an eligible dependent on her tax return, and even though she had not claimed this credit, the CRA reassessed her return to allow for it, resulting in an additional refund for the taxpayer. In May 2009, an amendment to CRA procedures was made to accept a letter from a third party attesting to the individual's separation. Examples of third parties who provide such a letter include an employer, a social worker, a school authority, an insurance company, a bank manager or officer with financial signing authority, a member of the Clergy, a medical doctor, a lawyer, notary or postmaster.

Professional service – fair treatment – individual complaint – seized bank account – financial hardship

5:007 A taxpayer claimed that he was experiencing financial hardship just before Christmas because the CRA had frozen his bank account and garnisheed his wages to collect on a tax debt which he claimed had been

paid in full. In fact, he claimed to have received a refund from the CRA since paying the debt. He suggested that he would not have been issued a refund if his tax debt remained unpaid. Based on the information provided by the taxpayer, the OTO asked the CRA to contact the taxpayer on an urgent basis to discuss the situation. The CRA contacted the taxpayer on December 23, 2009 and, seeing an error had been made, took immediate action to ensure that the seizure of his bank account was lifted. The CRA also contacted the taxpayer's employer to ensure that the garnishee on his wages was stopped. The CRA reimbursed \$1,500 to the taxpayer the next day and eventually reimbursed additional funds that had been garnisheed from his wages in error.

Professional service – fair treatment – individual complaint - CRA not responding to taxpayer's payment proposal – pension garnisheed without notice to taxpayer

5:008 A retired taxpayer's pension was garnisheed as part of the CRA's efforts to collect taxes from him. The CRA did not respond to a payment arrangement proposed by the taxpayer and issued a Requirement to Pay, which is a form of demand letter, to the payer of his pension benefits, demanding that 100% of the pension payments that were to go to the taxpayer be sent to the CRA instead. This caused financial hardship for the taxpayer, as this pension was his sole source of income. This Requirement to Pay was completed by the CRA without informing the taxpayer, contrary to CRA's collection policy. As a result of the Ombudsman's intervention, the Requirement to Pay was lifted and a payment arrangement was concluded to the taxpayer's satisfaction. The taxpayer also received a verbal apology from the CRA.

Professional service – fair treatment – individual complaint – CRA refusing to acknowledge court ruling that wife not involved in husband's business – collection activity based on that premise

5:009 A woman co-signed a business loan for her husband although she was not involved in the enterprise. Following the husband's bankruptcy, the CRA garnisheed the wife's income in order to recover GST and source deductions owed by the business. The CRA also placed a lien on her house. The CRA considered the wife to be a partner in her husband's business despite her attestations that she was not. The wife went to court to make her case and obtained a judicial declaration that she was not her husband's business partner. The CRA nonetheless took the position that the court ruling only applied to the GST debt and that the wife was still responsible for repaying the source deductions. After trying in vain to convince the CRA that the court ruling applied to the source deductions as well as the GST, the wife

contacted the OTO for assistance. The OTO suggested that the CRA should reconsider its position, which it did. Upon consultation with the Department of Justice, the CRA eventually agreed that the wife was not responsible for the debts of her husband's company. Following the OTO's intervention, the CRA removed all liens from the wife's home and refunded all garnisheed income with interest.

Professional service – fair treatment – assessments sent to wrong address – unpaid taxes as a result – penalties and interest imposed

5:010 A taxpayer alleged that the CRA had not advised him of his tax obligations regarding excess contributions to his Registered Retirement Savings Plan (RRSP) nor would it grant him relief for the penalties and interest imposed as a result of the excess contributions. Our review of the correspondence determined that the CRA had responded to the taxpayer's questions adequately and advised him on how to obtain further information if necessary. However, our investigation revealed that the CRA entered the wrong mailing address for the taxpayer's Notices of Assessment with respect to his 2003, 2004, and 2005 tax returns. The taxpayer did not receive complete information about his tax debt until January of 2009. We also determined that the CRA did not acknowledge its error to the taxpayer once it was realized. The Ombudsman recommended that the CRA conduct a thorough review of the taxpayer's file to ensure that all relevant information be taken into consideration for Taxpayer Relief. The CRA did review the taxpayer's account and granted relief of a substantial portion of the interest charges.

Professional service – fair treatment – individual complaint – systemic issue - unclear information requirements for CCTB

5:011 A single mother who relied on the CCTB to make ends meet had her benefits suspended by the CRA until she could provide documentary proof that her children had been born in Canada. The woman sent the CRA letters from people who knew the family and could confirm that fact, including the doctor who had delivered her babies in Canada. The documentation submitted by this taxpayer was deemed by the CRA to be insufficient proof. The taxpayer could not get clear information from the CRA about what type of documentation would be acceptable and even her Member of Parliament was unable to provide assistance. The dispute over her entitlement to the CCTB went on for nearly 11 months and as a result of being unable to pay the mortgage this single mother was facing foreclosure on her home. A complaint was made to the Ombudsman. Within weeks of the OTO's intervention, the issue was resolved and the woman was determined to be

entitled to a \$38,000 retroactive CCTB payment which she received in short order.

Professional service – fair treatment – individual complaint – lien on property – garnishment – hardship - insufficient consideration of taxpayer's financial situation

5:012 The CRA obtained a judgment against a taxpayer and placed a lien on her house to secure a debt. The lien on the property prevented the taxpayer from being able to refinance so she could pay the tax debt. In addition, the CRA was garnishing 35% of her wages which she claimed was causing financial hardship. The taxpayer did not contact the CRA and came to the Ombudsman directly. The OTO facilitated communication between the taxpayer and the CRA. She was provided with the information necessary to request a Postponement Agreement concerning the lien on her property. The OTO's interventions lead the CRA to re-assess the taxpayer's financial situation and reduce the garnishment to 25%.

Professional service – fair treatment – individual complaint – taxpayer charged interest due to CRA refund in error

5:013 A taxpayer was issued a large refund from the CRA in error. The refund had resulted from a CRA amendment to her tax return intended to correct a perceived mistake in reporting her Home Buyers' Plan amount. The taxpayer had, however, correctly reported this amount. When the CRA became aware of its error, a re-assessment was issued to reclaim the excess refund, as well as interest owing. Feeling that the interest charge on an excess refund that had resulted from an error by the CRA was unfair, the taxpayer made several attempts to explain her position and have the interest charge cancelled. After her efforts proved unsuccessful, the taxpayer contacted the OTO. Upon examining the issue, the OTO was able to establish communication between the CRA and the taxpayer, ensuring that the taxpayer's situation would be heard and reconsidered. Following our intervention, the CRA recognized the lack of fairness, agreed that Taxpayer Relief provisions of the *Income Tax Act* were applicable to the case, and cancelled all interest charges.

Professional treatment – courteous treatment – CRA agent rude to taxpayer

5:014 A taxpayer moved and forgot to advise the CRA of her new address. As a result, payment of her CCTB was suspended. When she phoned the CRA to rectify the situation the agent she dealt with was rude to her and eventually hung up on her. The taxpayer filed a complaint with the Ombudsman. Following an enquiry by the OTO, an expedited payment was sent the

taxpayer and the CRA phone agent in question contacted the taxpayer to apologize.

Professional treatment – courteous treatment – CRA collections officer rude to taxpayer

5:015 A taxpayer complained to the Ombudsman about the behavior of a CRA collections officer. The taxpayer also claimed that the collection activities were resulting in undue hardship. Following the OTO's intervention, a new collections officer was assigned to the case and a manageable payment plan was put in place.

Fair treatment – garnishment and seizure of bank account - hardship

5:016 The bank account of a small business owner was seized by the CRA. Being deprived of the funds in her corporate bank account, the owner was unable to replenish the inventory necessary to stay in business. Furthermore, the 30% wage garnishment during the business's off-season was considered by the taxpayer to be undue hardship. As a result of communications between the OTO and the CRA, the garnishment was reduced to 10% which enabled the business owner to replenish her inventory and remain in business.

Professional treatment – administrative error by CRA – courteous treatment - rude behavior by CRA official

5:017 The CRA erroneously entered a code in the taxpayer's account which indicated that she was bankrupt. This mistake led to errors in the taxpayer's Notices of Assessment for 2009, and 2010, as well as holding up her refund for 2010. When she enquired about how long it would take to correct the error, the taxpayer received inconsistent information from the CRA and was subjected to rude behavior from a CRA official. After the OTO contacted the CRA to ensure that the erroneous code was removed from the taxpayer's account and that it would not have a negative impact on the taxpayer's future filings or refunds, the CRA issued an apology to the taxpayer.

Professional treatment – courteous treatment – rude behavior

5:018 A taxpayer had to contact the CRA seven times to have a change of address recorded in his file. He was particularly frustrated that he was asked every year to provide the CRA with information about his global income. To add to the taxpayer's frustration, a CRA official made an error in scheduling an appointment with the taxpayer and was subsequently rude to the

taxpayer. Following the Ombudsman's intervention, the CRA issued an expression of regret to the taxpayer.

Fair treatment – garnishment of employment income – hardship

5:019 A taxpayer contacted the OTO because the CRA had garnisheed a portion of her employment income, and she said that this was causing her financial hardship. As a result of the OTO's intervention the CRA reviewed her financial situation and the garnishment was subsequently lifted. However, she was still unaware why she owed the money. The OTO's review found that she had been assessed as a third party on someone else's debt because she had cashed a cheque payable to a friend who owed money to the CRA. The CRA claimed that she was actually his common-law partner and therefore could be held liable. She denied that she was ever common-law with him but she had never filed an objection and the allowable timeframe for her to file an objection had passed. The OTO contacted the CRA to request that she be supplied with assistance on how to request an extension of time to file an objection, and how to make a request for Taxpayer Relief. As a result of that request, the CRA performed an internal review and decided to reverse the amount owing. Additionally she still had an amount owing relating to her own taxes. As a result of the OTO's communications with the CRA, she was provided with the information required to apply for relief of this debt, and recognizing that she was facing financial hardship, the CRA suspended all legal action on her account.

Article 6 – You have the right to complete, accurate, clear, and timely information

Taxpayers require a high level of service from the CRA in order to be able to meet their obligations and receive the benefits they are entitled to from their government. For the assistance and information provided to taxpayers by the CRA to be helpful, it must be “what the taxpayer needs, when they need it.” The Taxpayer Bill of Rights therefore acknowledges that taxpayers are entitled to complete, accurate, clear and timely information from the CRA.

The meaning of “complete”

“Having all necessary or normal parts, components, or steps”

The meaning of “accurate”

“Conforming exactly to fact; errorless”

The meaning of “clear”

“In plain and understandable language”

The meaning of “timely”

“Occurring at a suitable or opportune time; well-timed”

What the CRA says in its Taxpayer Bill of Rights Guide⁹

6. You have the right to complete, accurate, clear, and timely information. You can expect us to provide you with complete, accurate, and timely information in plain language that explains the laws and policies that apply to your situation.

We have a wide variety of information available electronically, by telephone, in print (generalized and specialized publications), and in person by appointment. Our enquiries agents have extensive training and reference tools that let them respond quickly and accurately to your questions and provide you with the highest quality of service. We offer our forms and publications in multiple formats for persons with a visual impairment. We use plain language and revise our publications to make sure that they are accurate and complete.

Is the information you received from us inadequate? If you are not satisfied with the completeness, accuracy, clarity, or

⁹ <http://www.cra-arc.gc.ca/E/pub/tg/rc17/README.html>

timeliness of the information you received from us, we want you to let us know. You have the right to lodge a service complaint and to be provided with an explanation of our findings.

Similar Provisions in Other Jurisdictions

British Columbia

The British Columbia Taxpayer Fairness and Service Code¹⁰ recognizes the need for taxpayers to be able to contact the revenue department and obtain clear and accurate information. It contains the following provision:

The right to obtain help

You have the right to obtain help from us so you can clearly understand your obligations and entitlements. You can expect us to be accessible and to communicate with you in a variety of ways, such as:

- telephone
- e-mail and fax
- letter mail
- in person – we attempt to accommodate face-to-face meetings with you where practical
- Service BC Centres - you can use these centres (located throughout British Columbia - www.servicebc.gov.bc.ca) to obtain information or to make most payments related to your obligation.

The right to complete, accurate, clear and timely information

You have the right to request and to receive information in writing to assist you in understanding your obligations and entitlements, including:

- information that is clear, easy to understand, complete, accurate, consistent and provided in a timely manner
- information in a format that is accessible and convenient to you
- legislation, bulletins, brochures, notices and forms available in paper format and also on our website at www.fin.gov.bc.ca/rev.htm
- information on legislative changes made available in a timely manner
- a free online update service to notify you of changes to online

¹⁰ <http://www.sbr.gov.bc.ca/msbr/tfsc/tfsc.htm>

- information
- explanations for our decisions

Written advice

You have the right to request and obtain written advice that pertains to your obligations and entitlements. We will provide you with general advice to address your situation in a timely manner. If requested, we will also provide you with written advice, such as technical interpretations or rulings on legislation that is more specific in nature.

Australia

The Australian Tax Office says in its Taxpayers' Charter¹¹ that:

We aim to provide accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

Our information ranges from published information about how the law applies generally to advice to you personally about how the law applies to your circumstances.

If you think our published information does not fully cover your circumstances, or you are unsure how it applies to you, contact us and we will help you to work out what is most appropriate to your needs.

If our information is incorrect or misleading

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we or you should take.

¹¹ <http://www.ato.gov.au/corporate/pathway.aspx?pc=001/001/002/017>

Application (Case Summaries)

Complete, accurate, clear, and timely information - individual complaint – taxpayer unable to obtain statement of account from the CRA

6:001 The CRA seized shares belonging to a taxpayer and advised that if his tax debt was not paid within 30 days, the shares would be sold. The taxpayer claimed that it would be impossible for him to meet the CRA's demands. He requested a Statement of Account from the CRA but he did not receive one in a timely fashion. The taxpayer was also unable to contact the appropriate CRA collections manager. Once the OTO got involved, the taxpayer received the information he required.

Complete, accurate, clear and timely information - individual complaint – tax refund withheld - taxpayer unable to obtain information about debt from CRA – taxpayer should not have been subject to collection

6:002 A taxpayer received a letter in 2008 entitled “Notice to Pay an Outstanding Debt.” It said that a 2007 tax refund would be withheld and applied against a balance owing on a “Crown debt.” The letterhead read “The Government of Canada,” yet it did not indicate which department or agency had sent it, nor did it provide a contact name for enquiries. It did include a toll-free number which directed the taxpayer to a Provincial Ministry of Revenue, but when she contacted that number no one there was able to provide any information about the debt. The taxpayer was referred to several departments and agencies, but no one could tell her where the letter originated or why the debt was claimed. Eventually, her Member of Parliament referred her to the Taxpayers’ Ombudsman. The OTO facilitated discussions between the CRA and the Provincial Ministry of Revenue and it was discovered that the CRA was collecting on behalf of a provincial program. The correspondence did not make this clear, and it was finally determined that this taxpayer should not have been in the collection database. As a result of the OTO’s intervention, the taxpayer’s name was removed from the database and her refund was issued. The taxpayer received an expression of regret from the CRA and was told that such notices would be reviewed.

Complete, accurate, clear and timely information – individual complaint - systemic issue – individual complaint – difficulty proving entitlement to Canada Child Tax Benefit – difficulty getting information from CRA on what documentation required as proof

6:003 A single mother, who relied on the CCTB to make ends meet, had her benefits suspended by the CRA. The CRA asked her to provide proof that her

children were born in Canada. Letters from people who knew the family—including a letter from the doctor who delivered her babies—were deemed insufficient. This taxpayer could not get clear information from the CRA about what documentation would be sufficient to satisfy the CRA. The dispute went on for months, and the mother was facing foreclosure on her mortgage and the possibility of losing her home. She filed a complaint with the Ombudsman, who reviewed the matter. Following the Ombudsman's intervention, the taxpayer received a \$38,000 retroactive CCTB payment, and was able to keep her home.

Complete, accurate, clear and timely information – individual complaint – taxpayer difficulty obtaining information from CRA about how payments on tax debt applied

6:004 A taxpayer contacted the OTO claiming that he was unable to get an explanation from the CRA about where the payments on his tax debt were being applied. He complained that he had spent a considerable amount of time on the phone being redirected to several different units within the CRA where no one could answer his questions. The taxpayer acknowledged that he had verbally taken out his frustrations on CRA personnel in the past and that he no longer trusted them to give him a proper response. The Ombudsman requested information from the CRA regarding the nature of the taxpayer's debt, a schedule of the payments made, as well as any recourse that may be available to him. The CRA provided a detailed report to the Ombudsman that addressed all of the taxpayer's questions. It also contacted the taxpayer's representative and addressed all concerns. OTO staff reviewed the CRA's report with the taxpayer and reassured him that all his payments had been properly applied to his account. The intervention of the OTO resulted in all of the taxpayer's concerns being addressed.

Complete, accurate, clear and timely information – individual complaint – taxpayer not understanding criteria for remission order – CRA improves its communications

6:005 A taxpayer applied to the Minister of National Revenue for a remission order, which is an order from the Minister to the CRA to erase a taxpayer's debt. The request was denied because the taxpayer did not meet the eligibility requirements for a remission order. In addition to being disappointed with the result, the taxpayer did not understand why he did not qualify for the relief requested. He filed a complaint with the Ombudsman based on his inability to understand why his request for relief had been denied. While the Ombudsman's investigation did not determine that the taxpayer had been treated unfairly, our work on this file led the CRA to conclude that it should improve its communication in respect of remission

recourse rights to taxpayers in such cases. The CRA has since modified its standard letter regarding remission denials.

Complete, accurate, and clear information – individual complaint – information not provided in taxpayer's official language

6:006 A woman moved from Quebec to Alberta with her husband and their seven children. Shortly after arriving in Alberta the couple separated. The woman had to rely on the CCTB to provide for her children. The CRA asked to woman to provide certain documentation in order to confirm her entitlement to CCTB benefits and when she could not provide the documents requested her benefits were suspended. This woman's mother tongue was French and she had difficulty communicating in English. Because she could not seem to get any help in French in her community she turned to the Ombudsman for help. The OTO facilitated contact with the CRA in her language of choice and productive communication was made possible. As a result, the CRA reviewed the situation and upon confirming the woman's CCTB entitlement, reinstated the payment of benefits as well as arrears.

Complete, accurate, and clear information – individual complaint – confusion over support payment leads to improper assessment and refund withheld – taxpayer difficulty communicating with CRA

6:007 A single mother whose principal source of income was provincial disability benefits was looking forward to the extra cash her income tax refund would provide. However, instead of receiving a refund she received a Notice of Reassessment from the CRA advising that she owed \$315 in taxes. The taxpayer also received a notice from the CRA that she had received an overpayment of the CCTB. These determinations were apparently due to a sizeable child support payment the CRA thought that she had received during that tax year. The taxpayer informed the CRA that the payment in question was not paid to her and should not be included in her income. It was actually a payment by her ex-husband of arrears for support that went towards a reimbursement of the Ontario Disability Support Program (ODSP). Despite a letter from the Family Responsibility Office confirming the taxpayer's information, the CRA disallowed the taxpayer's request for adjustment stating that support payments were not deductible. The taxpayer, however, was not trying to claim a deduction. She was trying to prove to the CRA that she had not received the payment at all. Once the OTO was contacted for assistance, we facilitated communication between the taxpayer and the CRA. The CRA subsequently contacted the Ontario Ministry of Community and Social Services on the taxpayer's behalf and obtained confirmation that the support payments had not been received by the taxpayer. The CRA proceeded to adjust the taxpayer's tax return and reviewed her CCTB

entitlement based on the reduction in income. The CRA also corrected the taxpayer's previous tax return for the same error.

Complete, accurate, and clear information – individual complaint – ambiguous and contradictory information from CRA

6:008 In 1998 a taxpayer unintentionally over-contributed to her Registered Retirement Savings Plan (RRSP) when the funds from her late husband's estate were transferred to her plan. Nine years later the CRA advised her that she was required to pay taxes on the over-contribution, as well as penalties and interest. The taxpayer's request to have the tax, penalties, and interest charges waived or cancelled was denied by the CRA. In response to a request from the taxpayer for an explanation of its decision, the CRA sent letters that contained ambiguous and contradictory information. The letters sent to the taxpayer provided only the phone number for a CRA General Enquiries line where agents were unfamiliar with her file and unable to provide any explanations on the decision to deny relief. The OTO's investigation determined that the taxpayer's request for cancellation or waiver of interest and penalties had not been considered pursuant to the Taxpayer Relief provisions of the *Income Tax Act* because she did not know how to request it and no one at the CRA had explained to her the difference between Taxpayer Relief (for cancellation of penalties and interest) and Administrative Relief (cancellation or waiver of tax). Once the review for Administrative Relief was complete, the CRA sent the taxpayer letters advising that no relief of the taxes would be granted. The CRA never conducted a review to determine whether Taxpayer Relief (cancellation of penalties and interest) was appropriate in the circumstances despite the taxpayer's request for "the tax, penalties, and interest to be waived or cancelled." Furthermore, the CRA never advised the taxpayer how she should request such relief. Once the OTO got involved, the CRA granted Taxpayer Relief and cancelled the penalties and interest. This case also resulted in the Ombudsman making recommendations to the CRA to improve its service to, and treatment of, taxpayers requesting relief. The Ombudsman recommended that CRA decision letters provide taxpayers with the phone number of the decision-maker to allow taxpayers to obtain clarification if needed. The CRA accepted this recommendation and modified its procedures. The Ombudsman also recommended that the CRA revise its Administrative Relief Denial Decision Letter to make it clear to the recipient that it referred only to a request for Administrative Relief (to waive tax owing), as well as provide information on how to request Taxpayer Relief. The Ombudsman recommended that the CRA interpret taxpayer requests for relief more broadly and to consider all applicable forms of relief. The CRA accepted these recommendations and has made the necessary changes to its operating procedures.

Complete, accurate, clear and timely information – systemic issue – decision letters from CRA Appeals Branch not providing reasons for decisions on Objections or Appeals

6:009 The OTO received complaints about the letters to taxpayers that communicated the decisions of two directorates within the CRA's Appeals Branch. CRA decision letters were advising of the decision with respect to Appeals or Objections and citing the relevant rule, but they did not provide reasons why the decisions had been made. When they requested written reasons for these decisions, some taxpayers were told by CRA that they would have to file an Access to Information Request in order to obtain that information. Based on these accounts from taxpayers, the Ombudsman conducted a systemic investigation and found these complaints to have merit. The CRA's Appeals Branch did not always explain its decision on the objection or appeal sufficiently to fulfill its commitments to fairness, openness, and accountability. This diminished taxpayer trust in the CRA and left taxpayers frustrated. In a Special Report entitled "*The Right to Know*," the Ombudsman recommended that once the Appeals Branch concluded a review of a taxpayer's objection to an assessment, or appeal of a ruling or payroll assessment, it should provide the taxpayer with reasons in writing for its decision to confirm, vary, or reverse the CRA's original decision. These reasons need not refer to every factor or conclusion in the process of reaching the decision, but should be sufficient, when read in context, to show why the Appeals Branch made the decision it did. This recommendation was accepted by the Minister of National Revenue and implemented by the CRA.

Complete, accurate, and clear information – systemic issue – lack of clear information available on Canada Child Tax Benefit

6:010 The OTO received many complaints from taxpayers who had difficulties in their dealings with the CRA with respect to eligibility for the CCTB. The complaints stemmed largely from the facts that the CRA's documentation requirements for establishing eligibility, and the changes made to those requirements, were not clear to taxpayers. The Ombudsman recommended in a Special Report entitled "Proving Your Status" that the CRA take steps to make it easier for taxpayers to understand the CCTB eligibility requirements, including the types of supporting documentation that may be required to establish eligibility. The Ombudsman's recommendations were deemed "fair and appropriate" by the Minister of National Revenue and the CRA was directed to implement them.

Article 9 - You have the right to lodge a service complaint and to be provided with an explanation of our findings.

The complaint procedure

Taxpayers who are not satisfied with the service they receive from the CRA, or who feel they have been treated unfairly, are encouraged to try to resolve the issue informally with the employee or area they are having difficulty with. If a taxpayer disagrees with the way his or her concerns are being addressed by a CRA employee, they should ask to discuss the matter with the employee's supervisor.

If taxpayers are not able to resolve the issue that way, they can lodge a formal complaint with CRA – Service Complaints.

What the CRA says in its Taxpayer Bill of Rights Guide¹²

9. You have the right to lodge a service complaint and to be provided with an explanation of our findings.

You can expect that if you make a service-related complaint, you will be listened to and given the opportunity to explain your situation. We will deal with your complaint promptly and in confidence, and we will explain our findings. Generally, “service” refers to the quality and timeliness of the work we performed. A service complaint could involve having received poor or misleading information, staff behaviour matters, mistakes, or undue delays.

Our service complaint process

If you are not satisfied with the service you have received, contact the CRA employee you have been dealing with (or call the phone number you have been given). If you still disagree with the way your concerns are being addressed, ask to discuss the matter with the employee's supervisor. If the matter is still not resolved, you have the right to file a service complaint by completing Form RC193, *Service-Related Complaint*. If you are still not satisfied with the service you have received from the CRA, you can contact the Taxpayers' Ombudsman. For more

¹² <http://www.cra-arc.gc.ca/E/pub/tg/rc17/README.html>

information on CRA – Service Complaints, go to www.cra.gc.ca/complaints or see Booklet RC4420, *Information on CRA – Service Complaints*.

Similar Provisions in Other Jurisdictions

British Columbia

The British Columbia Taxpayer Fairness and Service Code¹³ states:

The right to dispute resolution

You have the right to expect that your concerns, disagreements or complaints will be resolved fairly, in a timely manner and in accordance with the law.

If you disagree with an action we have taken, a decision we have made, feel you have been treated unfairly, or have received information which you believe is incorrect, we encourage you to discuss any concerns that you have with the person you have been dealing with. Ask the person you have been dealing with to give you the name and number of their manager. You can also get ministry contact information from the BC Government Directory website at www.dir.gov.bc.ca or call 877-388-4440.

The ministry person with whom you have been working can also help explain other dispute resolution options that may be available to you. For example, you may also have the right to resolve your dispute by filing a written appeal.

British Columbia Ombudsperson

If you feel that you have been treated unfairly or are unable to reach a satisfactory resolution with us, the Ombudsperson of British Columbia may be able to help. Call toll-free at 1 800 567-3247 or refer to the website www.ombudsman.bc.ca for more information.

Australia

In Australia, the Tax Office says in its Taxpayers' Charter¹⁴ that:

Respecting your right to make a complaint

If you are not satisfied with our decisions, service or actions, you have the right to make a complaint. We recommend that:

¹³ <http://www.sbr.gov.bc.ca/msbr/tfsc/tfsc.htm>

¹⁴ <http://www.ato.gov.au/corporate/pathway.aspx?pc=001/001/002/017>

- you first try to resolve your problem with the tax officer you have been dealing with (or phone the number you have been given)
- if you are not satisfied, or if you find it difficult to raise the issue with the tax officer, talk to the tax officer's manager
- if you are not satisfied with the way your complaint is being handled, phone our complaints line on 1 800 199 010.

You can also make a complaint by:

- lodging a complaints form online
- sending us a fax on 1800 060 063
- writing to us at:
ATO Complaints
PO Box 1271
Albury NSW 2640

We treat complaints seriously. If you come to us with any problems or complaints, we will try to resolve them quickly and fairly. Complaints also provide us with important feedback and help us to identify how we can improve our service.

The Commonwealth Ombudsman

If you have a complaint, you should try to resolve it with us first. If you are unable to, or if you are not satisfied with the way we have handled your complaint, the Commonwealth Ombudsman may be able to help you.

Application (Case Summaries)

Taxpayer experiencing difficulty lodging a compliant – inconsistent information – unable to contact the CRA – OTO facilitating communication

9:001 A taxpayer attempted to lodge a complaint with the CRA. However, , the CRA did not respond to the taxpayer's letters regarding his refund and subsequent objection. The CRA was also inconsistent in communicating its decision as to whether it would allow, or disallow, the charitable donations claim for the 2007 taxation year. The Ombudsman contacted the CRA to determine if it had received the letters in question. Upon being presented with documentation proving that the CRA had in fact received these letters from the taxpayer, the CRA issued a letter of regret and proceeded to assist the taxpayer. To further assist the taxpayer, a CRA official personally

contacted the taxpayer to clarify whether or not their charitable donation claims were accepted.

Confidentiality of taxpayer information – facilitate communication – unable to contact the CRA – inappropriate behaviour of a CRA official – obstructed from lodging a complaint

09:002 A CRA agent contacted the taxpayer's place of business while the taxpayer was out of the country. When the receptionist told the CRA representative that the taxpayer in question was away, she was told by the CRA employee that there were significant taxes owing by the taxpayer. The CRA agent should not have been discussing confidential taxpayer information with a third party. Moreover, the taxpayer had difficulty reaching the CRA employee and attempting to lodge a complaint. He was told that a supervisor would phone him though he never received such a call.

As a result of the Ombudsman's intervention, a letter of apology was issued and additional training was recommended for the CRA's employee. Moreover, it was determined that there had been a misallocation of the taxpayer's payment and that the taxpayer had actually paid the amount in question.

Article 10 - You have the right to have the costs of compliance taken into account when administering tax legislation.

To prevent tax compliance from becoming an unreasonable burden, costs associated with meeting one's tax obligations must be taken into account by the CRA. These costs can include the costs associated with preparing and filing one's taxes, costs that business owners must incur in order to collect taxes on behalf of the government, or even costs associated with dealing with the CRA such as providing it with information or interpreting information it provides. In order to keep these costs low, the CRA is working to streamline its processes so that the administrative costs associated with taxation are not a hardship.

What the CRA says in its Taxpayer Bill of Rights Guide¹⁵

10. You have the right to have the costs of compliance taken into account when administering tax legislation

We recognize the need to minimize the time, effort, and costs you have to incur to comply with the tax and benefit legislation we administer. At the same time, we have a duty to protect Canada's tax base by ensuring the highest possible level of tax compliance. We believe that most individuals and businesses, given the opportunity, information, and tools, will voluntarily comply with the law. To promote this type of voluntary compliance, we try to make your dealings with us as straightforward and as convenient as possible by:

- offering services across multiple channels including the Internet, telephone, mail, and by appointment
- being practical in our interactions with you by reducing and simplifying, whenever possible and appropriate, the work, time, and effort you devote to preparing your taxes
- improving how and when we communicate with you
- streamlining our internal processes

¹⁵ <http://www.cra-arc.gc.ca/E/pub/tg/rc17/README.html>

We continue to make compliance burden reduction for all taxpayers a priority. If you can suggest changes that would reduce your cost of complying with the legislation we administer, let us know by communicating with CRA – Service Complaints.

Similar Provisions in Other Jurisdictions

The United Kingdom

In the United Kingdom, HM Revenue & Customs has a document entitled “Your Charter¹⁶” which is the equivalent of the Taxpayer Bill of Rights. It says that the Revenue Department will:

9 Do all we can to keep the cost of dealing with us as low as possible

We aim to take up as little of your time and money as we can.

We will:

- try to make our services straightforward and easy to access
- make it as cheap as we can for you to contact us
- explain clearly what we need from you
- do our best to give you complete, accurate and consistent advice
- do our best to get things right first time

¹⁶ <http://www.hmrc.gov.uk/charter>

Article 11 - You have the right to expect us to be accountable.

The meaning of “accountability”

“required or expected to justify actions or decisions”

What the CRA says in its Taxpayer Bill of Rights Guide¹⁷

11. You have the right to expect us to be accountable

You have the right to expect us to be accountable for what we do. When we make a decision about your tax or benefit affairs, we will explain that decision and tell you about your rights and obligations. We are accountable through Parliament to all Canadians. We report to Parliament on our performance and the results we achieve against our service standards.

We are accountable to Canadians for the decisions we make

You can expect that we will give you information that is accurate and understandable. We try to explain the laws in language that is plain and clear, to provide our services in English and French, and to explain the decisions we make. Contact us if you do not agree with or do not understand, a tax assessment, a credit or benefit determination, or any other decision that we have made. We will give you a complete explanation and make any needed changes.

We are accountable to Parliament for the programs and legislation we administer

Each year, the CRA tables its annual report and a summary of its corporate business plan in Parliament. The plan sets out the CRA’s objectives for a three-year period, and the report describes the progress we have made in meeting those objectives. The Auditor General of Canada assesses the fairness and reliability of the information in the annual report and audits the CRA’s financial statements. You can get our business plan and annual report by going to www.cra.gc.ca/agency.

This Web page also contains information on our internal audits, program evaluations and public opinion research.

¹⁷ <http://www.cra-arc.gc.ca/E/pub/tg/rc17/README.html>

Similar Provisions in Other Jurisdictions

Australia

The Australian Taxpayers' Charter¹⁸ states as follows:

Being accountable

- We take the need to be accountable and meet the commitments made in this charter very seriously.
- When we make a decision about your affairs, we explain that decision and tell you about your rights and obligations in relation to it. We also give you contact details if you have any queries or need more information.
- If we cannot resolve an issue quickly, we keep you informed about our progress. We take all reasonable steps to see issues through to resolution.
- We publish our service (timeliness) standards and our performance against them on our website.
- We share with the public details about the issues we are confronting and the results of our actions.
- We consult with the community to measure our professionalism and how well we are performing against the commitments we make in this charter.
- We are accountable to Parliament and the Australian community

Application (Case Summaries)

Accountability – systemic issue – decision letters from CRA Appeals Branch not providing reasons for decisions on Objections or Appeals – accountability requires providing reasons for decisions

11:001 The OTO received complaints about the letters to taxpayers that communicated the decisions of the CRA's Appeals Branch. CRA decision letters were advising of the decision with respect to Appeals or Objections and citing the relevant rule, but they did not provide reasons why the decisions had been made. When they requested written reasons for these decisions, some taxpayers were told by CRA that they would have to file an Access to Information Request in order to obtain that information. Based on these accounts from taxpayers, the Ombudsman conducted a systemic investigation and found these complaints to have merit. The CRA's Appeals Branch did not always explain its decision on the objection or appeal

¹⁸ <http://www.ato.gov.au/corporate/pathway.aspx?pc=001/001/002/017>

sufficiently to fulfill its commitments to fairness, openness, and accountability. This diminished taxpayer trust in the CRA and left taxpayers frustrated. In a Special Report entitled *“The Right to Know”*, the Ombudsman recommended that once the Appeals Branch concluded a review of a taxpayer’s objection to an assessment, or appeal of a ruling or payroll assessment, it should provide the taxpayer with reasons in writing for its decision to confirm, vary, or reverse the CRA’s original decision. These reasons need not refer to every factor or conclusion in the process of reaching the decision, but should be sufficient, when read in context, to show why the Appeals Branch made the decision it did. This recommendation was accepted by the Minister of National Revenue and implemented by the CRA.

Accountability – individual complaint

11:002 A taxpayer claimed that she had been making bi-weekly payments to the CRA for the past year and that the CRA had not stopped garnishing her wages even after the debt had been repaid. In fact, the taxpayer thought the debt had been fully repaid when it had not. The CRA did take one extra bi-weekly payment, but it was immediately refunded to the taxpayer. The OTO facilitated communication between the CRA and taxpayer, who received a clear explanation and a detailed statement of account.

Accountability – individual complaint

11:003 A taxpayer’s representative alleged that the CRA had agreed to apply payments in a certain manner on his client’s tax account, but this was not done as agreed. The representative’s enquiries into the CRA’s failure to abide by the alleged agreements were not addressed. The representative wrote to us without going through CRA – Service Complaints (CRA-SC). We received permission to forward the complaint to the CRA-SC but he was very upset at this proposal since he didn’t believe the CRA could or would assist in resolving the issue. We advised him that we would facilitate contact and remain in contact until after CRA-SC completed the review. He was apprehensive, but agreed. After the OTO confirmed that CRA-SC had completed the review, we contacted the representative. He was satisfied with the outcome as his issues were resolved and his questions addressed.

Accountability – individual complaint

11:004 A complaint was received from a taxpayer’s representative stating that the CRA did not inform the taxpayer, an oil and gas business, of an existing tax debt for several years. It was also alleged that requests to the CRA for information about the debt were either unanswered or were not answered in a timely manner. Our analysis confirmed that the taxpayer was

informed of the 1989 debt at the time of the issuance of a Notice of Reassessment in 1990. Furthermore, the CRA provided statements of account to the taxpayer that reflected the balance outstanding, including arrears interest charges, until 1992. The last notification advising the taxpayer of this debt was issued in a statement of account dated September 17, 1992. At that time, the debt was segregated into a suspended inventory account as it was deemed uncollectible by the CRA; therefore, no further correspondence was issued to the taxpayer regarding this debt. In 2003, the taxpayer filed a T2 return and expected to receive a \$28,000 refund. That refund was withheld by the CRA for reasons not fully explained to the taxpayer. In 2009, the taxpayer filed a return expecting a refund of \$70,000 which was also withheld. Only once the taxpayer's representative filed a complaint with CRA-Service Complaints in December 2009 was he able to determine that the refunds had been applied to the 1989 debt which had been deemed uncollectible. The T1 Notices of Assessment (NOA) issued to individual taxpayers contain a verse stating that any refunds would be held to off-set against an existing debt; or that the refund amount shown on the notice does not include a previous outstanding amount. The T2 NOA issued to corporations does not contain this information. The Ombudsman's recommendation to the CRA was that the T2 NOA should contain a similar verse. The CRA accepted this recommendation.

Article 13 - You have the right to expect us to publish our service standards and report annually.

Service standards are essentially targets that the CRA has set for itself for the provision of services. These service standards advise taxpayers what they can expect in terms of quality and level of service from the CRA. Service standards also serve as the foundation for the CRA's performance management. By reporting on service standards, the CRA enhances transparency and accountability. These standards also serve as a yardstick for the Ombudsman in assessing the quality of service provided to taxpayers. Service standards are regularly revised to make sure they are up-to-date and relevant. When performance results drop significantly below targets, it is a signal that remedial action is necessary.

What the CRA says in its Taxpayer Bill of Rights Guide¹⁹

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

Service standards are the cornerstone of our performance management system and represent our public commitment to the level of service you can expect from us under normal circumstances. We set targets for achieving each service standard based on operational realities and infrastructure, available resources, historical performance, degree of complexity of the work, and Canadians' expectations. We regularly revise our service standards to make sure they are up-to-date and relevant. When our performance results drop significantly below targets, it is a signal to us that remedial action is necessary. We measure our performance against our service standards and publish the results in our annual report, which is tabled in Parliament every year.

Do you feel we did not meet our service standards?

If you believe that we did not meet our service standards, let us know by contacting CRA – Service Complaints. Your concerns will be directed to the CRA program administrators who are responsible for setting and reviewing the service standards.

¹⁹ <http://www.cra-arc.gc.ca/E/pub/tg/rc17/README.html>

Application (Case Summaries)

Service standard – standard for processing form and issuing cheque met

13:001 A taxpayer complained that she was experiencing unreasonable delay in receiving a cheque from the CRA. The service standard provided by the CRA is 10 business days to process the type of payment the taxpayer was expecting. Upon investigation it was determined that it took the CRA 8 business days from the receipt of her form to the mailing of her new cheque via Canada Post. The CRA had met the relevant service standard.

Service standard – taxpayer relief – service standard met

13:002 A taxpayer initially contacted the Ombudsman about the CRA's efforts to collect interest on a refund that had been issued to her in error. The OTO assisted the taxpayer in applying for relief from this interest payment and collection activity was ceased. However, the taxpayer came back to the OTO complaining that she was experiencing delays in the processing of his request for taxpayer relief. The OTO determined that the service standard for the taxpayer's particular request was 100 business days. The CRA was within the prescribed service standard. Thus, the Ombudsman was able to determine, and verify, that the correspondence was being processed in a reasonable timeframe.

Article 14 - You have the right to expect us to warn you about questionable tax schemes in a timely manner.

Taxpayers have a right to have their tax-related obligations explained clearly. Fraudulent tax schemes can obscure the law and lead people to contravene it.

While taxpayers are ultimately responsible for correctly filing their taxes, it is important that the CRA take measures to warn taxpayers about questionable taxation schemes as soon as possible. While it may not be possible to warn people about every illegal taxation scheme, the CRA is must endeavour to warn taxpayers about questionable tax schemes in a timely manner in order to allow them to avoid such schemes and file tax returns that are accurate and lawful.

The meaning of “questionable”

- Fraudulently imitating the CRA for mischievous, illegal, or criminal purposes
- Public seeking to confuse taxpayers
- Portraying illegal schemes as being legitimate under the Income Tax Act. Such schemes include:
 - Illegal attempts to receive fraudulent refunds
 - Illegal attempt to receive benefits to which one is not entitled to
 - Non-filing
 - Understating Income
 - All matters leading to tax evasion and fraud

What the CRA says in its Taxpayer Bill of Rights Guide²⁰

14. You have the right to expect us to warn you about questionable tax schemes in a timely manner.

You can expect us to provide you with timely information about questionable tax schemes that are under scrutiny by the CRA.

We can only warn you about tax schemes after we become aware of them and have determined that they may be questionable.

Cracking down on abusive tax schemes

²⁰ <http://www.cra-arc.gc.ca/E/pub/tg/rc17/README.html>

We try to provide information that will help you understand how to protect yourself against questionable tax schemes and the consequences you may face for participating in them. We take a number of steps to crack down on abusive tax schemes. For example, we sign agreements with international and domestic partners to exchange information, we use new technologies and other techniques to track and identify promoters and users of tax schemes, and we combine our expertise into special centres to better tackle complex tax schemes.

Protect yourself!

Our Tax Alert initiative provides you with information about enforcement activities, as well as warnings about tax avoidance and tax evasion schemes. Protect yourself against these schemes, and learn about the consequences of participating in them by going to www.cra.gc.ca/alert. If you have suggestions on how to inform the public about tax schemes, let us know by contacting CRA – Service Complaints.

Application (Case Summaries)

You have the right to expect us to warn you about questionable tax schemes in a timely manner – individual complaint

14:001 A taxpayer made contributions in 2004, 2005 and 2006 to an organization that claimed to donate gifts to charities in exchange for tax receipts that were four times the amount he actually contributed. A few years later, his 2004 return was reassessed, resulting in a tax bill that included significant interest charges. In August 2007, he was informed that his other tax returns were also going to be audited, but this time the letter contained a pamphlet warning him about tax shelter gifting arrangements. He complained that this warning should have been sent to him when he submitted his 2004 tax return, not three years later. He accused the CRA of delaying the reviews to punish him for contributing to this scheme. The OTO's investigation revealed that the CRA had issued public warnings beginning in 1999 and had advised the taxpayer that the review could take up to three years; however, we were able to direct him to another avenue of recourse which was to request interest relief.

You have the right to expect us to warn you about questionable tax schemes in a timely manner – individual complaint

14:002 A man filed his 2006 tax return claiming a significant business loss. Six months later, the CRA sent him a letter advising that his return was being reviewed prior to his assessment since he was involved in a tax avoidance scheme. He complained that it took the CRA over four years to make a decision to allow or disallow the loss and once the decision was finally made, the explanation was not clear. After receiving his complaint, the OTO investigated the matter and learned that the CRA took two years rather than four to complete its review. Additionally, we confirmed that some interest relief was granted in acknowledgement of the CRA's delays. However, we did also note that the CRA neglected to send him the copy of the audit report he had requested. Following our involvement, the CRA sent the taxpayer a copy of the audit report that explained its' decision to disallow the losses.

Article 15 - You have the right to be represented by a person of your choice.

Tax matters can be complex and not everyone has the knowledge or experience to be able to navigate the rules and regulations of our tax system. That is why many people turn to experts for assistance. Recognising that some taxpayers prefer to have someone deal with the CRA on their behalf, the Taxpayer Bill of Rights enshrines that choice as a taxpayer service right.

As information about someone's taxes is confidential, authorization from the taxpayer must be provided in writing. By completing the appropriate consent forms, taxpayers can assign someone to handle their tax affairs and deal with the CRA on their behalf. Commonly, people will choose an accountant or tax professional. As well, people may also choose to appoint a trusted member of their community. Representatives are appointed for specific tax years and are responsible for certain matters of their appointee's tax returns. However, it is the taxpayer's own responsibility to determine if the representative that they appoint has the knowledge necessary to correctly make submissions to the CRA. The taxpayer remains legally responsible for the accuracy of their tax submissions even if a representative completes them. Should consent be withdrawn, taxpayers have the right to expect that the CRA will quickly stop the flow of information to past representatives that no longer have authorization.

Representatives are not allowed to change taxpayer addresses, marital status, or direct deposit information. Nor is the CRA allowed to give a taxpayer's representative the eight-character access code or one's CRA security code.

For this right to mean anything, the CRA must make the forms needed to appoint a representative readily available. Also, processing of forms associated with appointing a representative must be conducted in a timely manner.

What the CRA says in its Taxpayer Bill of Rights Guide²¹

15. You have the right to be represented by a person of your choice

²¹ <http://www.cra-arc.gc.ca/E/pub/tg/rc17/README.html>

You can choose a person to represent you and to get advice about your tax and benefit affairs. Once you authorize us to deal with this person, we can discuss your situation with your representative. However, you are still legally responsible for your tax and benefit affairs, even if you choose to have someone act for you.

How do you give consent to a representative?

Taxpayer information is confidential. We need your consent before we can deal with another person as your representative for tax matters. You can give this consent through the online services My Account or My Business Account on our Web site at www.cra.gc.ca . You can also give consent to a representative by completing Form T1013, *Authorizing or Cancelling a Representative*, if you are an individual, or Form RC59, *Business Consent Form*, for a business.

What will your representative be allowed to do?

When you authorize us to deal with your representative, your authorization will be limited to the tax year(s) you specify, and for certain matters related to information on your return(s). For example, we will be allowed to disclose your confidential tax information to your representative and perhaps make changes to your tax return, as requested by your representative. However, your representative will not be allowed to change your address, marital status, or direct deposit information. We will not give your representative your eight-character access code or your CRA security code. In the event of an audit, your representative is not a substitute for your involvement.

Are you having difficulties having your representative recognized by the CRA?

Authorizing a representative is usually a simple process. However, you have to make sure you sign and date the authorization form. Otherwise, we cannot be sure that you have given consent for us to deal with a representative. To protect the confidentiality of your tax information, we will not accept or act on any information given on this form unless you or a legal representative (power of attorney, executor, legal guardian)

has signed and dated the form. If you believe that we have not respected your right to be represented by a person of your choice, let us know by communicating your concerns using the CRA – Service Complaint process.

Similar Provisions in Other Jurisdictions

The United Kingdom

The United Kingdom's HM Revenue & Customs says in "Your Charter"²² that it will:

8 Accept that someone else can represent you

You may want someone else to deal with us on your behalf. To protect your privacy, we will only deal with them if they have been authorized to represent you. We will:

- respect your representative's right to act for you and deal with them appropriately

British Columbia

In British Columbia, the Taxpayer Fairness and Service Code²³ states that:

Representation

If you provide us with written authorization, we will discuss your situation with a representative of your choice.

Application (Case Summaries)

Taxpayer's person of choice - recognition of taxpayers' representative dependent upon processing of authorization form – CRA delays in processing authorizations forms

15:001 A national accounting firm contacted the OTO for assistance after facing considerable delays in the processing of authorization forms it had submitted to the CRA. The firm was in the midst of preparing T4 slips for several of its clients and needed confirmation from the CRA of the source deductions its clients had remitted. The CRA will not release information to a third party without the written consent of the taxpayer so the accounting firm had faxed signed consent forms for its clients to the CRA several times and well in advance of the March 1 deadline for filing T4s. As the deadline approached, however, the CRA was not processing the consent forms and the accounting firm was not obtaining the information it required from the CRA. The OTO was able to facilitate communication between the CRA and the

²² <http://www.hmrc.gov.uk/charter>

²³ <http://www.sbr.gov.bc.ca/msbr/tfsc/tfsc.htm>

accounting firm which resulted in confirmation being obtained and the T4s being filed on time.

Taxpayer's person of choice - recognition of taxpayers' representative – CRA contacting taxpayer directly against his wishes

15:002 A taxpayer's authorized representative advised the CRA that his client did not wish to communicate directly with the CRA and that he had been given full authority to deal with the CRA on the taxpayer's behalf. The CRA nonetheless continued to contact the taxpayer directly. Some of the representative's phone calls to the CRA were not returned and on one occasion a CRA agent hung up on him. A complaint was made to the Ombudsman. The OTO's intervention resulted in the CRA issuing an apology to the taxpayer for not having respected his instructions and an acknowledgment that proper procedures had not been followed.

Facilitating taxpayer understanding – tax preparers – forms authorizing representatives – understanding required forms

15:003 The Ombudsman was contacted about people not understanding the purpose of the TIS60 *Volunteer Income Tax Program* authorization form. The OTO advised the CRA of the misgivings some volunteers had with the TIS60 form. The purpose of the form is to ensure that taxpayers understand that volunteer tax preparers, associated with community tax preparation programs, are not CRA representatives. This is especially important because CRA employees will often volunteer for these programs. After this complaint, the CRA did blend the TIS60 and TIS183 forms into one new form, the TIS60 (08), to enhance communication of their intended message.

Commitment to Small Business

The Taxpayer Bill of Rights also includes the CRA Commitment to Small Business, a five-part statement through which the CRA undertakes to support the competitiveness of the Canadian business community by ensuring that interactions with the CRA are as effective and efficient as possible. These commitments complement the Government of Canada's pledge to create a competitive and dynamic business environment in which Canadian businesses will thrive.

1. The CRA is committed to administering the tax system in a way that minimizes the costs of compliance for small businesses.
2. The CRA is committed to working with all governments to streamline service, minimize cost, and reduce the compliance burden.
3. The CRA is committed to providing service offerings that meet the needs of small businesses.
4. The CRA is committed to conducting outreach activities that help small businesses comply with the legislation we administer.
5. The CRA is committed to explaining how we conduct our business with small businesses.