

# Taxpayers' **Ombudsman**

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Independent + Objective = Fair

## Back to Basics: Taxpayers Have Rights



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of Canada

Gouvernement  
du Canada

Canada

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**Taxpayers'**  
**Ombudsman**  
Independent + Objective = Fair



**Back to Basics: Taxpayers Have Rights**

# 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 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, unless otherwise provided by law, not to pay income tax amounts in dispute before you have had an impartial review.
8. You have the right to have the law applied consistently.
- 9. You have the right to lodge a service complaint and to be provided with an explanation of [the CRA's] findings.\***
- 10. You have the right to have the costs of compliance taken into account when administering tax legislation.\***
- 11. You have the right to expect [the CRA] to be accountable.\***
12. You have the right to relief from penalties and interest under tax legislation because of extraordinary circumstances.
- 13. You have the right to expect [the CRA] to publish [its] service standards and report annually.\***
- 14. You have the right to expect [the CRA] to warn you about questionable tax schemes in a timely manner.\***
- 15. You have the right to be represented by a person of your choice.\***
16. You have the right to lodge a service complaint and request a formal review without fear of reprisal.

\* The rights the Taxpayers' Ombudsman is responsible to uphold.



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## About the Taxpayers' Ombudsman

The position of Taxpayers' Ombudsman (Ombudsman) was created to support the government priorities of stronger democratic institutions, increased transparency within institutions, and fair treatment. As an independent and impartial officer, the Ombudsman handles complaints about the services of the Canada Revenue Agency (CRA).

As outlined in the Order in Council P.C. 2007-0828,<sup>1</sup> the Ombudsman's mandate is to assist, advise, and inform the Minister of National Revenue (Minister) about any matter relating to the CRA's services.

As part of this mandate, the Ombudsman has the power to address any request for a review of a service matter or a matter arising from the application of articles 5, 6, 9, 10, 11, 13, 14, and 15 of the Taxpayer Bill of Rights.

The Ombudsman examines systemic service issues that may negatively affect a large number of people or entities, or a segment of the population. The findings of systemic examinations are reported to the Minister and the Chair of the Board of Management of the CRA. Where necessary, systemic examination reports include recommendations for improvements to the CRA's service. Systemic service issues are reviewed at the request of the Minister or on the Ombudsman's own initiative.

## Introduction

As Canadians, we are entitled to many rights, including democratic, language, equality, mobility and treaty rights, and freedoms of religion, expression, assembly and association.<sup>2</sup> Some rights are protected by laws, such as the *Canadian Charter of Rights and Freedoms*,<sup>3</sup> while others are laid out in principles. The Taxpayer Bill of Rights<sup>4</sup> is one such set of principles that detail the rights a taxpayer is entitled to receive when dealing with the Canada Revenue Agency (CRA). It is a collection of 16 rights, which includes a mix of statutory and common law rights, and administrative entitlements.

1 Order in Council P.C. 2007-0828, amended by P.C. 2011-0033. Retrieved from: [canada.ca/content/dam/oto-boc/migration/whwr/rdrncncl160728-eng.pdf](http://canada.ca/content/dam/oto-boc/migration/whwr/rdrncncl160728-eng.pdf).

The role of the Taxpayers' Ombudsman was created by the Governor General In Council, pursuant to paragraph 127.1(1)(c) of the *Public Service Employment Act*, which states the Governor in Council may appoint a special adviser to a minister. S.C. 2003, c. 22, online: <https://laws-lois.justice.gc.ca/eng/acts/p-33.01/>.

2 Government of Canada. Citizenship and Immigration Canada, "Discover Canada: The Rights and Responsibilities of Citizenship" Ci11/2012E-PDF, at p. 8. Retrieved from: [canada.ca/content/dam/ircc/migration/ircc/english/pdf/pub/discover.pdf](http://canada.ca/content/dam/ircc/migration/ircc/english/pdf/pub/discover.pdf). (Citizenship and Immigration Canada is now known as Immigration, Refugees and Citizenship Canada.)

3 *Canadian Charter of Rights and Freedoms*, s. 7, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c. 11, online: [laws-lois.justice.gc.ca/eng/Const/page-15.html](https://laws-lois.justice.gc.ca/eng/Const/page-15.html).

4 Government of Canada. Canada Revenue Agency, "Taxpayer Bill of Rights" RC4417 E (12/2013). Retrieved from: [canada.ca/content/dam/cra-arc/formspubs/pub/rc4417/rc4417-12-13e.pdf](http://canada.ca/content/dam/cra-arc/formspubs/pub/rc4417/rc4417-12-13e.pdf).

It is important to note the term “taxpayer” is not limited to persons who pay tax, but includes any person regardless of liability to pay tax. This can include any individual, business, corporation, charity, or other legal entity that is subject to Canadian tax statutes, eligible to receive an amount as a benefit, or provided a service by the CRA.<sup>5</sup> In this report, when we use the term “taxpayer” we use it to refer generally to any person or entity interacting with the CRA.

When speaking with groups and individuals throughout Canada, the Office of the Taxpayers' Ombudsman found many people are not aware there is a Taxpayer Bill of Rights. Our Office has also found, when meeting with CRA employees, many are not aware of the Taxpayer Bill of Rights and, of those who are aware, many do not have a deep understanding of its importance.

However, the Taxpayer Bill of Rights is not new. Its creation and the creation of the role of the Taxpayers' Ombudsman were both announced on May 28, 2007.<sup>6</sup> Both initiatives sought to “enhance the services delivered to Canadians by the Canada Revenue Agency (CRA),” increase the CRA's accountability, and “ensure fair treatment of all taxpayers by the CRA.”<sup>7</sup>

Referring to the Taxpayer Bill of Rights, the Honourable Carol Skelton, then Minister of National Revenue, stated, “We want taxpayers to know they have rights and that we at the CRA take these rights seriously. By introducing a Taxpayer Bill of Rights, we are ensuring that taxpayers are served with a higher standard of service...”<sup>8</sup>

Thirteen years after the CRA's initial commitment to take taxpayer rights seriously and ensure fair treatment of taxpayers, we seek to identify the extent to which the CRA has fulfilled this commitment.

In our preliminary research, our Office found information on the Taxpayer Bill of Rights is not easily accessible or prominently featured in the CRA's corporate reports, communication products, or on its webpages. Our preliminary research also revealed insufficient training available on the Taxpayer Bill of Rights. This falls short of the CRA's statement in its 2007-2008 Annual Report to Parliament, that it takes “every opportunity possible to inform taxpayers of their rights...”<sup>9</sup>

5 *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.), ss 248 (1). Retrieved from: [laws-lois.justice.gc.ca/PDF/I-3.3.pdf](https://laws-lois.justice.gc.ca/PDF/I-3.3.pdf).

6 Government of Canada. Canada Revenue Agency, “Canada's New Government Announces Taxpayer Bill Of Rights and Taxpayers' Ombudsman” [News Release] May 28, 2007. Retrieved from: [canada.ca/content/dam/canada/news/migration/web/Dha.do-fileName-574\\_20070528124731\\_en\\_nr070528-e.pdf](https://canada.ca/content/dam/canada/news/migration/web/Dha.do-fileName-574_20070528124731_en_nr070528-e.pdf).

7 Ibid.

8 Ibid.

9 Government of Canada. Canada Revenue Agency, “Canada Revenue Agency Annual Report to Parliament 2007- 2008” at p. 21-22. Retrieved from: [canada-prod.adobecqms.net/content/dam/cra-arc/migration/cra-arc/gncy/nnnl/2007-2008/prfrmnc-e/rc4425-08eng.pdf](https://canada-prod.adobecqms.net/content/dam/cra-arc/migration/cra-arc/gncy/nnnl/2007-2008/prfrmnc-e/rc4425-08eng.pdf).



The Taxpayers' Ombudsman (Ombudsman) determined it was necessary to launch a systemic examination into whether the CRA is using the Taxpayer Bill of Rights as a foundational document to guide its daily activities; and how the CRA ensures it is continually accountable in upholding taxpayer rights and reporting publicly on how it does this.

Specifically, our Office examined:

- The degree to which the rights in the Taxpayer Bill of Rights guides the CRA's daily activities and its interactions with taxpayers.
- How the CRA ensures it is accountable in upholding the Taxpayer Bill of Rights.
- The ways in which the CRA publicly reports on how it upholds the rights in the Taxpayer Bill of Rights.




To address the issues raised in this report, the Taxpayers' Ombudsman makes 14 recommendations to the Minister of National Revenue and the Chair of the Board of Management of the CRA.

## Scope

The Taxpayers' Ombudsman's (Ombudsman) mandate is to assist, advise and inform the Minister of National Revenue about any matter related to the service provided to a taxpayer by the Canada Revenue Agency (CRA). The Ombudsman has the authority to examine any issue arising from the application of articles 5, 6, 9, 10, 11, 13, 14 and 15 of the Taxpayer Bill of Rights. This examination is unique for our Office as it does not focus solely on one or more of these specific rights. Instead, we examined how each taxpayer right identified in the Taxpayer Bill of Rights is treated by the CRA. We did not limit the scope of this examination to the taxpayer rights directly connected to service, as we do when examining individual complaints.

At the heart of this examination is taxpayer right 11, "You have the right to expect [the CRA] to be accountable." Assessing whether the CRA is accountable involves the examination of how it upholds the entirety of the Taxpayer Bill of Rights, including those rights not directly related to service. This examination and report therefore touches on all rights identified in the Taxpayer Bill of Rights, and looks at them holistically.

Some rights are rooted in legislated obligations that are overseen by other administrative bodies. They include:

-  Taxpayer right 2, “You have the right to service in both official languages”, which entitles taxpayers to service in English and French.<sup>10</sup>
-  Taxpayer right 3, “You have the right to privacy and confidentiality”, which provides assurance of the protection of personal and taxpayer information.<sup>11</sup>
-  Elements of taxpayer right 6, “You have the right to complete, accurate, clear, and timely information.”<sup>12</sup>

The Office of the Commissioner of Official Languages,<sup>13</sup> the Office of the Privacy Commissioner of Canada<sup>14</sup> and the Office of the Information Commissioner of Canada<sup>15</sup> oversee these rights and the CRA's performance in upholding them.

In addition, the Taxpayer Bill of Rights reiterates statutory rights in the *Income Tax Act* that, if violated, can be heard by the courts. This includes taxpayer right 4, “You have the right to a formal review and a subsequent appeal.” Subsection 165(1) of the *Income Tax Act* allows taxpayers to file an objection to an assessment, and subsection 165(3) requires the Minister “with all due dispatch” to “reconsider the assessment and vacate, confirm or vary the assessment or reassess.”<sup>16</sup>

A review of these rights was therefore limited to confirming the CRA has protocols, procedures, and training in place to facilitate adherence to its obligations and a reporting mechanism to demonstrate its accountability in upholding the rights.

In this examination, we will not be explicitly addressing the five commitments to small business detailed in the Taxpayer Bill of Rights. The commitments to small business uphold the same principles of the rights in the Taxpayer Bill of Rights. Each of the 5 commitments are encompassed in one (or more) of the rights in the Taxpayer Bill of Rights and are therefore incorporated into our analysis.

10 *Official Languages Act*, R.S.C., 1985, c. 31 (4th Supp.). Retrieved from: [laws-lois.justice.gc.ca/PDF/O-3.01.pdf](https://laws-lois.justice.gc.ca/PDF/O-3.01.pdf).

11 *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5. Retrieved from: [laws-lois.justice.gc.ca/PDF/P-8.6.pdf](https://laws-lois.justice.gc.ca/PDF/P-8.6.pdf).  
*Privacy Act*, R.S.C., 1985, c. P-21. Retrieved from: [laws-lois.justice.gc.ca/PDF/P-21.pdf](https://laws-lois.justice.gc.ca/PDF/P-21.pdf).

12 *Access to Information Act*, R.S.C., 1985, c. A-1. Retrieved from: [laws-lois.justice.gc.ca/PDF/A-1.pdf](https://laws-lois.justice.gc.ca/PDF/A-1.pdf).

13 The Office of the Commissioner of Official Languages, online: [clo-ocol.gc.ca/en](https://clo-ocol.gc.ca/en).

14 The Office of the Privacy Commissioner of Canada, online: [priv.gc.ca/en](https://priv.gc.ca/en).

15 The Office of the Information Commissioner, online: [oic-ci.gc.ca/en](https://oic-ci.gc.ca/en).

16 Supra note 5.

## Methodology

The CRA has many ways it communicates information – internally, to the public, and directly to taxpayers. Corporate reports and plans, training material, guidance documents, its Code of integrity and professional conduct, policies, procedure manuals, and all other information communicated internally shape the CRA's culture in terms of how it and its employees treat those they serve. The CRA's promotion and incorporation of taxpayer rights in this information shapes the experience of the taxpayer population. For the CRA to deliver programs and services and interact with taxpayers according to their rights, it is necessary for the CRA to maintain, through its employees, widespread understanding of, and respect for, taxpayer rights.

In this examination, we analyzed whether, and if so, how and to what extent, the CRA considers the Taxpayer Bill of Rights in the development of its foundational resources such as its:

-  corporate plans
-  procedures
-  reporting mechanisms
-  policies
-  training materials

We also examined whether, and if so, how and to what extent, the CRA makes taxpayers aware of their rights, and incorporates and upholds those rights in its daily activities and interactions with taxpayers.

To assess the extent to which the CRA upholds the rights in the Taxpayer Bill of Rights, our office reviewed a cross section of CRA products. This included those that pertain to interacting with the public where we expected to see a clear incorporation of the Taxpayer Bill of Rights, as well as products related to corporate and planning functions. In our examination, our Office assessed the degree to which the CRA considered taxpayer rights in creating these products by seeking evidence of the representation and inclusion of those rights. Not only did we review the products for direct references to taxpayer rights and the Taxpayer Bill of Rights, but we also examined whether the CRA's products reflected the rights and the values the Taxpayer Bill of Rights represents.

Findings and observations about these products can be applied in principal to the sum of products coming out of or produced by the CRA.

Correspondence sent to individual taxpayers and benefit recipients was not included in the scope of our review.

See Annex A for a list of all CRA products examined and/or referenced.

## Taxpayer rights

### Taxpayer rights internationally

Taxpayers' rights are framed differently in different jurisdictions. Some countries have outlined their taxpayer rights in charters, while others have created bills, legislation, declarations, or other such documents. For the purpose of this section, we will use the term "charter" to broadly refer to any such document outlining taxpayer rights.

Tax administrators internationally often use charters to inform taxpayers of their legislated rights. They are important because they "summarise and explain in plain language a taxpayers' [sic] rights and obligations in relation to their tax affairs, making such information much more widely accessible and understandable."<sup>17</sup>

Charters are usually not legally enforceable themselves but often include rights that are legislated and/or legally enforceable through other legal mechanisms. Charters also provide principles that guide the practical administration of tax laws and ensure fairness in their application. Their value has been recognized by scholars as "essential principles of good practice"<sup>18</sup> in tax administration, as "[s]ometimes, it is pointless providing legal protection when it is administrative protection that is needed in very practical situations. The theory and principles of taxpayer protection provide for this."<sup>19</sup>

Countries such as the United Kingdom,<sup>20</sup> New Zealand,<sup>21</sup> Australia,<sup>22</sup> and the United States of America<sup>23</sup> were early adopters of charters. There has been an increasing recognition of the importance of taxpayer rights that are legal, administrative, and based upon recognized standards, and the Organisation for Economic Co-operation and Development (OECD) has supported it since the 1990s.<sup>24</sup>

17 Organisation for Economic Co-operation and Development of Fiscal Affairs Forum on Tax Administration, Tax guidance series, "General Administrative Principles – GAP002 Taxpayers' Rights and Obligations" (August 2003) Centre for Tax Policy and Administration, at p. 6. Retrieved from: [oecd.org/tax/administration/Taxpayers%27\\_Rights\\_and\\_Obligations-Practice\\_Note.pdf](https://oecd.org/tax/administration/Taxpayers%27_Rights_and_Obligations-Practice_Note.pdf).

18 D. Bentley, "Revisiting rights theory and principles to prepare for growing globalisation and uncertainty" (International Conference on Taxpayer Rights, Washington DC, November 18-19, 2015) at p. 1. Retrieved from: [taxpayerrightsconference.com/wp-content/uploads/2015/11/Revisiting\\_Rights\\_TheoryPDF.pdf](https://taxpayerrightsconference.com/wp-content/uploads/2015/11/Revisiting_Rights_TheoryPDF.pdf).

19 Ibid.

20 The United Kingdom's first charter was published in 1986. Government of Australia, Inspector-General of Taxation, "Review into the Taxpayers' Charter and Taxpayer Protections" (December 2016) at p. 22. Retrieved from: [cdn.tspace.gov.au/uploads/sites/16/2016/12/Review-into-the-Taxpayers-Charter-and-Taxpayer-Protections.pdf](https://cdn.tspace.gov.au/uploads/sites/16/2016/12/Review-into-the-Taxpayers-Charter-and-Taxpayer-Protections.pdf).

21 New Zealand's Inland Revenue Charter was first published in March 2001. Ibid at p. 30.

22 Australia's Taxpayers' Charter was first launched in July 1997. Ibid at p. 15-16.

23 The first version of a Taxpayer Bill of Rights was legislated in 1988. Ibid at p. 18-19.

24 Supra note 18.

Some charters are used as administrative documents, as in the case of Australia's Taxpayers' Charter.<sup>25</sup> Others are legislated rights, such as the Chilean Tax Code, which provides ten taxpayer rights and a number of requirements for the Chilean revenue authority, and states the taxpayer rights are actionable in the Chilean Tax and Customs Courts where the revenue authority has violated these rights.<sup>26</sup>

One of the primary reasons for having a charter is to make taxpayer rights easily accessible and understood by taxpayers. The United States did this for its Taxpayer Bill of Rights by bringing together "multiple existing rights embedded in the tax code and groups them into 10 broad categories, making them more visible and easier for taxpayers to find on [irs.gov](https://www.irs.gov)."<sup>27</sup>

## History of taxpayer rights in Canada

Sources for the rights contained in Canada's Taxpayer Bill of Rights include the *Canadian Charter of Rights and Freedoms* (the Charter),<sup>28</sup> the *Income Tax Act*,<sup>29</sup> other statutes, and the common law.<sup>30</sup>

The groundwork for Canada's Taxpayer Bill of Rights was laid when the Charter came into force on April 17, 1982. It included protections for basic rights and freedoms for everyone in Canada, including taxpayers. This forced the Government of Canada to amend the *Income Tax Act*, to make it consistent with the Charter.<sup>31</sup>

In 1984, a Task Force was launched by the Honourable Perrin Beatty, who was at that time the opposition revenue critic, to evaluate Revenue Canada, what is now known as the Canada Revenue Agency or CRA.<sup>32</sup> The Task Force conducted public meetings throughout Canada and received criticism on how Revenue Canada operated. The Task Force produced a report with 76 recommendations, including the need for a taxpayers' bill of rights.<sup>33</sup>

25 Supra note 20.

26 Supra note 20 at p. 32-33.

27 Government of the United States of America, Internal Revenue Service, "IRS Adopts "Taxpayer Bill of Rights;" 10 Provisions to be Highlighted on [IRS.gov](https://www.irs.gov), in Publication 1" [News Release] June 10, 2014. Retrieved from: [irs.gov/pub/irs-news/IR-14-072.pdf](https://www.irs.gov/pub/irs-news/IR-14-072.pdf).

28 Supra note 3.

29 Supra note 5.

30 Jinyan Li, "Taxpayers' Rights in Canada" (1997) 7 Revenue L.J. 83 at p. 85. Retrieved from: [www5.austlii.edu.au/au/journals/RevenueLawJl/1997/6.pdf](http://www5.austlii.edu.au/au/journals/RevenueLawJl/1997/6.pdf).

31 Ibid.

32 Roy MacGregor, "The grooming of Canada's new tax man" Maclean's, March 25, 1985, online: [archive.macleans.ca/article/1985/3/25/the-grooming-of-canadas-new-tax-man](http://archive.macleans.ca/article/1985/3/25/the-grooming-of-canadas-new-tax-man).

33 Ibid.

## Declaration of taxpayer's rights

In response to this, challenges to the *Income Tax Act* on the grounds of the *Canadian Charter of Rights and Freedoms* (the Charter) and public pressure led Revenue Canada to establish the Declaration of Taxpayer Rights.<sup>34</sup> The publication was introduced in 1985 by the Honourable Perrin Beatty who, by that time, had been appointed the Minister of National Revenue.<sup>35</sup>

### Canada: Declaration of taxpayer's rights<sup>36</sup>

Issued by Revenue Canada Taxation

*The Constitution and laws of Canada entitle you to many rights that protect you in matters of income tax. You are entitled to know your rights. You are entitled to insist on them. You are entitled to be heard, and to be dealt with fairly.*

*Helping you exercise your rights remains an important role of the staff of national revenue taxation at its district offices and other locations. Fair treatment of a complaint is one of your greatest rights.*

FAIR TREATMENT IN ALL DEALINGS WITH NATIONAL REVENUE TAXATION MEANS IMPORTANT RIGHTS TO:

#### Information

You are entitled to expect that the Government will make every reasonable effort to provide you with access to full, accurate and timely information about the *Income Tax Act*, and your rights under it.

#### Impartiality

You are entitled to an impartial determination of law and facts by departmental staff who seek to collect only the correct amount of tax, no more and no less.

<sup>34</sup> Supra note 30 at p. 85-86.

<sup>35</sup> Government of Canada. Canada Revenue Agency. Taxpayer Bill of Rights, Questions and answers, online: [canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/taxpayer-bill-rights/questions-answers.html](http://canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/taxpayer-bill-rights/questions-answers.html). Date modified: 2013-06-26.

<sup>36</sup> Intertax, "Canada: Declaration of taxpayer's rights" (1986) 14 Intertax, Issue 10/11, at p. 231. Retrieved from: [kluwerlawonline.com/abstract.php?id=TAXI1986076](http://kluwerlawonline.com/abstract.php?id=TAXI1986076).

**Courtesy and consideration**

You are entitled to courtesy and considerate treatment from National Revenue Taxation at all times, including when it requests information or arranges interviews and audits.

**Presumption of honesty**

You are entitled to be presumed honest unless there is evidence to the contrary.

FAIR TREATMENT UNDER THE CONSTITUTION AND LAWS OF CANADA INCLUDES IMPORTANT RIGHTS TO:

**Privacy and confidentiality**

In addition to other constitutional and legal rights, you have a special right that personal and financial information you provide to National Revenue Taxation will be used only for purposes allowed by law.

**Independent review**

You are entitled to object to an assessment or reassessment if you think the law has been applied incorrectly. To protect this right, you must file your objection within 90 days of the assessment or reassessment. Filing an objection will start an independent review by departmental appeals officers. If they don't resolve the matter to your satisfaction, they will explain how you can appeal to the courts.

**An impartial hearing before payment**

Until you have had an impartial review by the Department or a court, you may withhold amounts disputed in formal objections filed after January 1, 1985. If you appeal to a higher court, you will be able to provide equivalent security instead of paying those disputed amounts.

Certain exceptions, set out in legislation to guarantee these rights, are applicable to frivolous appeals to the courts, or where collection is clearly in jeopardy.

**YOU ARE ENTITLED TO EVERY BENEFIT ALLOWED BY THE LAW**

You have a right to arrange your affairs in order to pay the minimum tax required by law. You can also expect your government to administer tax law consistently, and to apply it firmly to those who try to avoid paying their lawful share.

The Declaration of Taxpayer Rights was followed by the launch of a fairness initiative in March 1998 by the Honourable Herb Dhaliwal, then Minister of National Revenue. Revenue Canada consulted with clients and stakeholders and analyzed the fairness practices of over 15 countries.<sup>37</sup> This led to the creation of an action plan, *Setting a New Standard: A 7-Point Plan for Fairness*, which included the corporate objective “to demonstrate to the public the fairness of our customs and revenue administration.”<sup>38</sup> Revenue Canada committed to a number of initiatives to “show Canadians our strong and continuing commitment to fairness,” including “developing a comprehensive guide on the rights of our clients.”<sup>39</sup>

### Taxpayer Bill of Rights

On May 28, 2007, a News Release announced the creation of both the Taxpayer Bill of Rights and the role of Taxpayers' Ombudsman, and conveyed the importance of these initiatives in making the CRA more accountable and transparent to those it serves.<sup>40</sup>

In the announcement, the Honourable Carol Skelton, then Minister of National Revenue, joined by the late Honourable Jim Flaherty, then Minister of Finance, stated, “We want taxpayers to know they have rights and that we at the CRA take these rights seriously.”<sup>41</sup> She stated the Taxpayer Bill of Rights will “enhance the services delivered to Canadians by the Canada Revenue Agency” by “ensuring that taxpayers are served with a higher standard of service...”<sup>42</sup> In its online questions and answers on the Taxpayer Bill of Rights, the CRA states the Taxpayer Bill of Rights expanded and enhanced the rights in the *Declaration of Taxpayer Rights*, and was prompted due to “[s]everal factors such as new tax laws and the changing environment in which businesses and taxpayers operate.”<sup>43</sup>

37 Government of Canada. Canada Revenue Agency. Our Roadmap for the Future (1999-2000 to 2001-02), online: [canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/summary-corporate-business-plan/roadmap-future-1999-2000-2001-02.html](http://canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/summary-corporate-business-plan/roadmap-future-1999-2000-2001-02.html). Date modified: 2014-02-24.

38 Ibid.

39 Ibid.

40 Supra note 6.

41 Ibid.

42 Ibid.

43 Supra note 35.



Canada Revenue  
AgencyAgence du revenu  
du Canada

**Figure 1**  
**Taxpayer**  
**Bill of Rights**

## 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, unless otherwise provided by law, not to pay income tax amounts in dispute before you have had an impartial review.
8. You have the right to have the law applied consistently.
9. You have the right to lodge a service complaint and to be provided with an explanation of our findings.
10. You have the right to have the costs of compliance taken into account when administering tax legislation.
11. You have the right to expect us to be accountable.
12. You have the right to relief from penalties and interest under tax legislation because of extraordinary circumstances.
13. You have the right to expect us to publish our service standards and report annually.
14. You have the right to expect us to warn you about questionable tax schemes in a timely manner.
15. You have the right to be represented by a person of your choice.
16. You have the right to lodge a service complaint and request a formal review without fear of reprisal.

### Commitment to Small Business

1. The Canada Revenue Agency (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 legislation we administer.
5. The CRA is committed to explaining how we conduct our business with small businesses.

For more information, visit the CRA website at  
[canada.ca/taxpayer-rights](http://canada.ca/taxpayer-rights)

## CHARTRE DES DROITS DU CONTRIBUABLE

1. Vous avez le droit de recevoir les montants qui vous reviennent et de payer seulement ce qui est exigé par la loi.
2. Vous avez le droit de recevoir des services dans les deux langues officielles.
3. Vous avez droit à la vie privée et à la confidentialité.
4. Vous avez le droit d'obtenir un examen officiel et de déposer par la suite un appel.
5. Vous avez le droit d'être traité de façon professionnelle, courtoise et équitable.
6. Vous avez droit à des renseignements complets, exacts, clairs et opportuns.
7. Vous avez le droit de ne pas payer tout montant d'impôt en litige avant d'avoir obtenu un examen impartial, sauf disposition contraire de la loi.
8. Vous avez droit à une application uniforme de la loi.
9. Vous avez le droit de déposer une plainte en matière de service et d'obtenir une explication de nos constatations.
10. Vous avez le droit que nous tenions compte des coûts liés à l'observation dans le cadre de l'administration des lois fiscales.
11. Vous êtes en droit de vous attendre à ce que nous rendions compte.
12. Vous avez droit, en raison de circonstances extraordinaires, à un allègement des pénalités et des intérêts imposés en vertu des lois fiscales.
13. Vous êtes en droit de vous attendre à ce que nous publions nos normes de service et que nous en rendions compte chaque année.
14. Vous êtes en droit de vous attendre à ce que nous vous mettions en garde contre des stratagèmes fiscaux douteux en temps opportun.
15. Vous avez le droit d'être représenté par la personne de votre choix.
16. Vous avez le droit de déposer une plainte en matière de service et de demander un examen officiel sans crainte de représailles.

### Engagement envers les petites entreprises

1. L'Agence du revenu du Canada (ARC) s'engage à administrer le régime fiscal afin de réduire au minimum les coûts de l'observation de la loi engagés par les petites entreprises.
2. L'ARC s'engage à collaborer avec tous les gouvernements en vue de rationaliser les services, de réduire les coûts et d'alléger le fardeau lié à l'observation de la loi.
3. L'ARC s'engage à offrir des services qui répondent aux besoins des petites entreprises.
4. L'ARC s'engage à offrir des services au public qui aident les petites entreprises à observer les lois qu'elle administre.
5. L'ARC s'engage à expliquer sa façon de mener ses activités auprès des petites entreprises.

Pour obtenir plus de renseignements, visitez le site Web  
de l'ARC à [canada.ca/droits-contribuable](http://canada.ca/droits-contribuable)

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When it was announced, the Taxpayer Bill of Rights included 15 rights composed of a mix of statutory, common law, and administrative rights.<sup>44</sup> It also included five commitments to small business. The CRA states the five commitments to small business were included in the Taxpayer Bill of Rights, because the Government of Canada wanted to acknowledge the economic growth small businesses provide and the need for the CRA to lessen the administrative compliance burden on small businesses.<sup>45</sup>

On June 26, 2013, then Taxpayers' Ombudsman, Paul Dubé, and then Minister of National Revenue, Gail Shea, jointly announced the addition of right 16 to the Taxpayer Bill of Rights. This was done at the recommendation of the then Taxpayers' Ombudsman who heard from stakeholders across Canada that due to their fear of retaliation by the CRA, they were fearful of invoking their rights and filing a complaint with the Office of the Taxpayers' Ombudsman.<sup>46</sup> To ease this fear and ensure taxpayer rights are not diminished as a result of it, Minister Shea agreed to add taxpayer right 16, "You have the right to lodge a service complaint or request a formal review without fear of reprisal."<sup>47</sup>

Minister Shea indicated taxpayer right 16 built upon existing measures the CRA had previously implemented to maintain public confidence in the integrity of the tax system, including its Integrity Framework to support accountability and responsibility in the CRA, its Code of Ethics and Conduct, and its conflict of interest guidelines.<sup>48</sup>

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44 The following taxpayer rights are legislated:

- Taxpayer Right 2, "You have the right to service in both official languages" – *Official Languages Act*, supra note 10.
- Taxpayer Right 3, "You have the right to privacy and confidentiality" – *Income Tax Act*, supra note 5. *Excise Tax Act*, R.S.C., 1985, c. E-15. Retrieved from: [laws-lois.justice.gc.ca/PDF/E-15.pdf](https://laws-lois.justice.gc.ca/PDF/E-15.pdf). *Excise Act*, 2001, S.C. 2002, c. 22. Retrieved from: [laws-lois.justice.gc.ca/PDF/E-14.1.pdf](https://laws-lois.justice.gc.ca/PDF/E-14.1.pdf). *Privacy Act*, R.S.C., 1985, c. P-21. Retrieved from: [laws-lois.justice.gc.ca/PDF/P-21.pdf](https://laws-lois.justice.gc.ca/PDF/P-21.pdf).
- Taxpayer Right 4, "You have the right to a formal review and a subsequent appeal" – *Income Tax Act*, supra note 5.
- Taxpayer Right 12, "You have the right to relief from penalties and interest under tax legislation because of extraordinary circumstances" – *Income Tax Act*, supra note 5.

45 Supra note 35.

46 Government of Canada. Office of the Taxpayers' Ombudsman, "Taxpayers' Ombudsman and Minister of National Revenue announce addition of a new right to the Taxpayers Bill of Rights" [News Release]. June 26, 2013. online: [canada.ca/en/news/archive/2013/06/taxpayers-ombudsman-minister-national-revenue-announce-addition-new-right-taxpayers-bill-rights.html](https://canada.ca/en/news/archive/2013/06/taxpayers-ombudsman-minister-national-revenue-announce-addition-new-right-taxpayers-bill-rights.html).





47 Ibid.

48 Government of Canada. Canada Revenue Agency, "Taxpayer Bill of Rights Amendments" [News Release] June 26, 2013, online: <https://www.canada.ca/en/news/archive/2013/06/taxpayer-bill-rights-amendments.html>.




## The role of the Taxpayer Bill of Rights in the CRA's culture

### How the CRA views the Taxpayer Bill of Rights

The CRA's vision is to be trusted, fair and helpful by putting people first.<sup>49</sup> The CRA has four values which it expects its employees to uphold:

-  **Integrity** – “We establish and preserve trust with all stakeholders by applying the law fairly and upholding our standards.”
-  **Professionalism** – “We are knowledgeable, accurate, conscientious, innovative, and service-oriented.”
-  **Respect** – “We interact with people in a way that makes them feel heard and valued. We listen and respond judiciously.”
-  **Collaboration** – “We recognize and act on opportunities to work together to deliver the Agency's mandate. We consult, and share ideas, fostering innovation to improve the service experience, both internally and externally.”<sup>50</sup>

When reviewing the CRA's values, it is evident they directly relate to the values of the Taxpayer Bill of Rights, and actions that uphold the CRA's values also uphold taxpayer rights, including, for example:

-  Treating people professionally, courteously and fairly (taxpayer right 5).
-  Applying the law consistently (taxpayer right 8).
-  Providing complete, accurate, clear and timely information (taxpayer right 6).

Overall, however, the CRA values do not reflect all the rights outlined in the Taxpayer Bill of Rights.

In the CRA's Guide RC17 Taxpayer Bill of Rights Guide: Understanding your rights as a taxpayer, the CRA presents its values as the underpinning of the Taxpayer Bill of Rights, stating “The Taxpayer Bill of Rights describes and defines 16 rights and **builds upon** the Canada Revenue Agency's (CRA) corporate values of professionalism, respect, integrity, and collaboration” [emphasis added].<sup>51</sup> This framing of the relationship between the CRA's values and the values of taxpayer rights is concerning because it is inverted. The purpose of the Taxpayer Bill of Rights, like other taxpayer charters, is to increase people's understanding of, and access to, their rights; and to “summarise and explain in plain language a taxpayers' [sic] rights and obligations in relation to their tax affairs.”<sup>52</sup> When the Taxpayer Bill of Rights was released, the intention was not to demonstrate how the CRA already

49 Government of Canada. Canada Revenue Agency. Mission, vision, promise, and values, online: <https://www.canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/mission-vision-promise-values.html>. Date modified: 2019-09-06.

50 Ibid.

51 Government of Canada. Canada Revenue Agency, “Taxpayer Bill of Rights Guide: Understanding your rights as a taxpayer” RC17(E) Rev. 18, at p. 4. Retrieved from: [canada.ca/content/dam/cra-arc/formspubs/pub/rc17/rc17-18e.pdf](https://canada.ca/content/dam/cra-arc/formspubs/pub/rc17/rc17-18e.pdf).





52 Supra note 17 at p. 6.

upholds the values of taxpayer rights, it was to inform taxpayers “they have rights” and to help “strengthen Canada’s democratic institutions, increase transparency and accountability, and ensure fair treatment to all Canadians.”<sup>53</sup> The CRA’s values should be built upon the values in the rights in the Taxpayer Bill of Rights, not the reverse.

The disconnect in the CRA’s understanding of the purpose of its Taxpayer Bill of Rights was further reinforced by the CRA’s placement of a hyperlink to it on its webpage “About the Canada Revenue Agency.”<sup>54</sup> This location is also where the CRA provides hyperlinks to information on things such as its mission, vision, promise and values; its structure and operational framework; collective bargaining; and the CRA newsroom. This would not be the first place taxpayers would expect to find information about **their** rights. While the Taxpayer Bill of Rights must guide how the CRA operates, it does not describe the CRA. Since receiving a draft of this report, the CRA has moved a hyperlink to the Taxpayer Bill of Rights to one of its homepages, [canada.ca/en/revenue-agency.html](https://www.canada.ca/en/revenue-agency.html), under the heading “About the Canada Revenue Agency.”<sup>55</sup>

Furthermore, while the CRA’s values<sup>56</sup> align with certain rights in the Taxpayer Bill of Rights, the CRA’s values do not provide a linkage to taxpayer rights so CRA employees have a clearer understanding of how to live the CRA’s values and taxpayer rights in their daily work. For example, this does not illustrate how CRA employees are to “work together to deliver the Agency’s mandate” (collaborate) or “interact with people in a way that makes them feel heard and valued” (respect), in such a way that they can provide “complete, accurate, clear and timely information” (taxpayer right 6).

At the Office of the Taxpayers’ Ombudsman, we regularly hear complaints from individuals about difficulties getting clear, accurate and complete information when calling the CRA’s Individual tax enquiries line,<sup>57</sup> or other CRA telephone lines. They express difficulties with:

-  getting through to an agent
-  agents do not have access to all the information they require to answer questions
-  agents provide conflicting and sometimes incorrect information
-  agents have limited time to spend with each caller on their issue

53 Supra note 6.

54 Government of Canada. Canada Revenue Agency. About the Canada Revenue Agency, online: [canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra.html](https://www.canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra.html), Date modified: 2020-01-13.

55 Government of Canada. Canada Revenue Agency. Canada Revenue Agency, online: <https://www.canada.ca/en/revenue-agency.html>. Date modified: 2020-04-14.

56 Supra note 49.

57 1-800-959-8281

This chasm between aspirational value statements and the practical applicability of the values in day-to-day work illustrates what our Office often observes as ‘the two CRAs’:

1. The CRA as a corporate entity writ large, managed by a centralized headquarters in Ottawa.
2. CRA employees of all levels, working in offices across the country, including employees at headquarters; a group of individuals approximately 40,000 strong who have varying degrees of access to and knowledge of the corporate CRA.

The CRA must reconsider how it presents taxpayer rights both to the public and to its own employees. It must first and foremost see them as **rights**, and a foundation upon which to build its corporate values. This change in approach, when communicated to CRA employees, would help employees understand the linkages between taxpayer rights, the CRA’s values, and the services they provide to taxpayers.

Once this shift has occurred, the CRA would be further empowered to improve its service culture and the services it provides, and could lead to the development of new approaches to meeting its obligations, as outlined in the *Income Tax Act* and other governing legislation.

## Incremental change

In our examination we observed a number of positive changes showing an increased emphasis on taxpayer rights within the CRA in the last few years, such as:

- Highlighting the Taxpayer Bill of Rights in the CRA’s most recent corporate publications.<sup>58</sup>
- Creation of the Chief Service Officer role<sup>59</sup> and Directorate (formerly Secretariat), with a mandate, in part, to “create service outcomes that **uphold** – and **go beyond** – what is outlined in the Taxpayers’ [sic] Bill of Rights...” [emphasis added]<sup>60</sup>.
- Increasing CRA employees’ exposure to the Taxpayer Bill of Rights through, for example:
  - The creation of an internal webpage dedicated to the Taxpayer Bill of Rights.
  - Periodically having information on the Taxpayer Bill of Rights appear on the login screen employees use to access their CRA computers.

58 Government of Canada. Canada Revenue Agency, “Summary of the Corporate Business Plan 2019-2020 With Perspectives to 2021-2022.” Retrieved from: [canada.ca/content/dam/cra-arc/corp-info/aboutcra/corp-bsns-plan/2019-2022/smmry22-en.pdf](https://canada.ca/content/dam/cra-arc/corp-info/aboutcra/corp-bsns-plan/2019-2022/smmry22-en.pdf).

Government of Canada. Canada Revenue Agency, “2019-20 Departmental Plan.” Retrieved from: [canada.ca/content/dam/cra-arc/corp-info/aboutcra/corp-bsns-plan/2019-2022/rvncndp-en.pdf](https://canada.ca/content/dam/cra-arc/corp-info/aboutcra/corp-bsns-plan/2019-2022/rvncndp-en.pdf).

59 Government of Canada. Canada Revenue Agency, “The Minister of National Revenue announces the appointment of a new Chief Service Officer and the launch of consultations with Canadians” [News Release] October 29, 2018, online: [canada.ca/en/revenue-agency/news/2018/10/the-minister-of-national-revenue-announces-the-appointment-of-a-new-chief-service-officer-and-the-launch-of-consultations-with-canadians.html](https://canada.ca/en/revenue-agency/news/2018/10/the-minister-of-national-revenue-announces-the-appointment-of-a-new-chief-service-officer-and-the-launch-of-consultations-with-canadians.html).

60 Government of Canada. Canada Revenue Agency. Backgrounder: CRA’s Chief Service Officer, online: [canada.ca/en/revenue-agency/news/2018/10/backgrounder-cras-chief-service-officer.html](https://canada.ca/en/revenue-agency/news/2018/10/backgrounder-cras-chief-service-officer.html). Date modified: 2018- 10-29.

- Distribution of an email from the Commissioner and Deputy Commissioner of the CRA to all CRA employees in April 2019, titled “Taxpayer Bill of Rights – Going Above and Beyond,” which, while focused on service rather than taxpayer rights generally, also reinforced the Taxpayer Bill of Rights as “a set of 16 rights that help Canadians understand what they are entitled to and what they can reasonably expect from their dealings with the CRA.”

We can therefore see the CRA is taking steps to increase its employees’ familiarity with the Taxpayer Bill of Rights. Yet in our outreach visits to CRA offices across Canada, we find many employees are still not even aware of the existence of the Taxpayer Bill of Rights, or the fact that these rights should govern their actions and interactions with taxpayers.

The CRA created and presents the Taxpayer Bill of Rights as a set of rights taxpayers can expect in their dealings with the CRA; however, for the CRA’s employees to uphold the Taxpayer Bill of Rights they need to be aware of and exposed to it in the work environment. At the Office of the Taxpayers’ Ombudsman, there is a copy of the Taxpayer Bill of Rights at every workstation.

## Building a service culture on a foundation of taxpayer rights

The CRA is currently focusing significantly on service with the creation of the Chief Service Officer (CSO) role and the appointment of the first CSO in March 2018<sup>61</sup> and associated ongoing initiatives such as:

- public consultations<sup>62</sup>
- partnering with internal and external stakeholders to collaborate and co-create service improvements in a process the CRA calls “design jam”<sup>63</sup>
- establishing an external advisory panel on service<sup>64</sup>
- working internally to engage employees in a shift towards improved service

The CRA has reported publicly that its goal of providing better service and “putting people first” is built on the knowledge that it needs to continue to improve people’s service experience and deliver better outcomes.<sup>65</sup>

61 Supra note 60.

62 For example: Santec Consulting Ltd., “Serving Canadians Better – Consultation Summary Report.” October 10, 2019, online: [canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/serving-canadians-better-report.html](https://canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/serving-canadians-better-report.html). Date modified: 2019-12-18.

63 Government of Canada. Canada Revenue Agency. 2018 Report on Public Service Renewal Results, online: [canada.ca/en/revenue-agency/campaigns/public-service-renewal-results.html](https://canada.ca/en/revenue-agency/campaigns/public-service-renewal-results.html). Date modified: 2019-01-18.

64 Government of Canada. Canada Revenue Agency. External advisory panel on service, online: [canada.ca/en/revenue-agency/campaigns/serving-canadians-better-cra/external-advisory-panel-service.html](https://canada.ca/en/revenue-agency/campaigns/serving-canadians-better-cra/external-advisory-panel-service.html). Date modified: 2018-12-13.




65 Supra note 60.



A review of internal and external material produced in support of the CSO, including information on the External advisory panel on service,<sup>66</sup> What we heard – In-person consultations,<sup>67</sup> and the 2019 Service culture employee survey results, shows no linkages between the Taxpayer Bill of Rights and improved services. For example, the CSO conducted online consultations and a series of in-person consultation sessions between April and June 2019,<sup>68</sup> which it used to produce the webpage “Serving Canadians Better at the Canada Revenue Agency,” with a summary of the findings of the consultations.<sup>69</sup> However, it makes only indirect reference to two taxpayer rights and does not reference the Taxpayer Bill of Rights.

Service is very closely tied to most (and it could be argued, all) of the taxpayer rights outlined in the Taxpayer Bill of Rights. Therefore, one would expect that in the CRA’s push to improve its service to taxpayers, it would be building upon the fundamental underpinnings of the rights in the Taxpayer Bill of Rights that can guide the CRA in improving its service. One would further expect to see the CRA doing this publicly, and widely making direct linkages between taxpayer rights and its desire to improve its service. A major part of improved service is ensuring taxpayers are aware of the rights they have when they receive service from the CRA.

In its Serving Canadians Better consultations both individuals and advocates were asked to provide the CRA with their perspectives on:

-  What does good service look like?
-  How does the CRA get there?
-  What does success look like?<sup>70</sup>

While the CRA posed its questions through the specific lens of service, respondents broadened the scope in their responses, envisioning a more flexible CRA with “more personalized, empathetic customer service with improved accessibility, better access to information, decreased wait times, and enhanced education for young people and newcomers.”<sup>71</sup> In other words, respondents are looking for the CRA to uphold taxpayer rights, specifically taxpayer right 5, “You have the right to be treated professionally, courteously, and fairly,” and taxpayer right 6, “You have the right to complete, accurate, clear, and timely information,” as well as to treat taxpayers as people, taking into account individual circumstances.

66 Supra note 64.

67 Government of Canada. Canada Revenue Agency. What we heard – In-person consultations, online: [cra-engage-arc.ca/en/engagement-initiatives/what-we-heard-person-consultations](https://cra-engage-arc.ca/en/engagement-initiatives/what-we-heard-person-consultations).

68 Supra note 62.

69 Government of Canada. Canada Revenue Agency. Serving Canadians Better at the Canada Revenue Agency, online : <https://www.canada.ca/en/revenue-agency/campaigns/serving-canadians-better-cra.html>. Date modified: 2019-12-18.

70 Supra note 62.

71 Ibid.

As part of the CSO initiative, the CRA created an internal webpage intended for all CRA employees, titled “Agency Transformation,” which outlines how the CRA “could change to serve people better, internally and externally.” This page states the CRA is “listening” and is engaging with its employees and Canadians from across the country. This CRA internal webpage outlines the four elements of its “Agency Transformation”:

1. People First philosophy with a vision to be “Trusted, fair and helpful by putting people first”; and a mission to “Administer tax, benefits, and related programs, and ensure compliance on behalf of governments across Canada...”.
2. Guiding Principles: “We are people-centric,” “We are supportive,” “We are innovative,” “We are one team” and “We are fair”.
3. Values of integrity, professionalism, respect and collaboration.
4. Its Service Identity of being respectful and helpful, and doing it right.<sup>72</sup>

However, the CRA misses an opportunity to connect the transformation of its service and its service identity to that service’s fundamental underpinnings of taxpayer rights. There is no mention of taxpayer rights or the Taxpayer Bill of Rights.

Attempting to frame the CRA’s desired service transformation without using the Taxpayer Bill of Rights as a guiding document or incorporating taxpayer rights in its Guiding Principles further perpetuates the disconnect among the CRA and its employees regarding the integration of the Taxpayer Bill of Rights into the CRA’s daily activities. Incorporating taxpayer rights in its service transformation would provide greater exposure to its employees of the importance of taxpayer rights and position the CRA as a more people-centric organization that respects the rights of the taxpayers it serves.

For example, one of the Guiding Principles is “We are fair – Our decisions are grounded in quality information, fairness, integrity and engagement.”<sup>73</sup> While this reflects taxpayer right 5, “You have the right to be treated professionally, courteously, and fairly,” and could reflect taxpayer right 1, “You have the right to receive entitlements and to pay no more and no less than what is required by law,” the CRA does not make these connections. Instead, it appears the CRA is instead stating it is already people-centric, supportive, innovative, and fair.<sup>74</sup> Alternatively, the CRA could have created a guiding principle such as, “We strive to be fair – We must ensure our decisions are grounded in quality information, fairness, integrity, engagement and respect of taxpayers’ rights.”

72 Mireille Laroche, “Thank you Saskatchewan TSO for a great chat on service! Merci au BSF de la Saskatchewan pour de superbes conversations sur le service! @RossErmeIAC” [tweet] December 10, 2019, online: [twitter.com/mireille\\_cra/status/1204370047633768448](https://twitter.com/mireille_cra/status/1204370047633768448).

73 Ibid.

74 When the CRA was creating its new Guiding Principles, the Taxpayers’ Ombudsman cautioned the CRA against using the wording “We are people-centric,” “We are supportive,” “We are innovative,” “We are one team” and “We are fair.” These appear to be statements of what the CRA has already accomplished and not principles its employees should aspire to in their interactions with taxpayers. The Taxpayers’ Ombudsman cautioned that this could appear disingenuous and put taxpayers off by making them feel they had not been heard in expressing what the CRA needs to work on and improve.



In the CRA's Service Policy Framework Phase 1, which is an internal document created for all CRA employees outlining the CRA's "integrated approach to service," the CRA indicates its objective is to "outline the foundation and approach for placing clients at the centre of everything we do." However, despite the fact that to provide good service and for the CRA to improve its service, it must respect taxpayer rights, there is no mention of taxpayer rights or the Taxpayer Bill of Rights. While there are some elements reflecting certain values in the Taxpayer Bill of Rights, the CRA makes no linkages to taxpayer rights.

While our office agrees the CRA should continually strive to improve its service, we find the CRA's work in this area would be strengthened if it used taxpayer rights as the driving force behind its service initiatives. Service to taxpayers is so much more than treating people how they wish to be treated – e.g. with politeness and respect. While enhanced service can indirectly uphold elements of the Taxpayer Bill of Rights, the CRA needs to bring taxpayer rights to the forefront of its desired transformation to ensure not simply an improved experience for those interacting with the CRA, but improved outcomes in terms of fairness, accuracy, timeliness, consistency and accountability in the treatment of taxpayers. Using taxpayer rights as reference points can broaden the scope to service improvement by examining issues from multiple angles.

Our Office views the creation and mandate of the CSO as a step in the right direction. Specifically, the final portion of the CSO's mandate, which indicates "The CSO will lead the transformation of the CRA's service culture with a mandate to: ... Create service outcomes that uphold – and go beyond – what is outlined in the Taxpayers' [sic] Bill of Rights..."<sup>75</sup> Ensuring all taxpayers rights are upheld, and being accountable for those rights, will in itself improve the CRA's service. Taking the 16 rights as a starting point and analyzing program policies and procedures through the lens of those rights could lead to changes that not only increase fairness, but also service.

## Putting taxpayer rights into practice

The Taxpayer Bill of Rights is not only a set of foundational principles upon which the work of the CRA should be built, but should be used to assist employees in executing their daily duties to ensure the principles and values of taxpayer rights are upheld. To do so would require training and tools for employees to better understand how to use the Taxpayer Bill of Rights. For example, following the Government of Canada's renewed commitment in 2015 to implementing Gender Based Analysis Plus (GBA+) across federal departments and agencies,<sup>76</sup> the CRA developed internal resources for employees on how to apply the methodology in their work. This included an assessment template, an online course, multiple learning videos, and a step-by-step guide that challenges employees to check values and assumptions, gather information and consider stakeholder perspectives.

<sup>75</sup> Supra note 60.

<sup>76</sup> Government of Canada. Status of Women Canada, Privy Council Office and Treasury Board of Canada Secretariat, "Action Plan (2016-2020)" in response to the Auditor General of Canada's Fall 2015 Report on Gender-based Analysis. Retrieved from: [cfc-swc.gc.ca/gba-acss/plan-action-2016-en.PDF](https://cfc-swc.gc.ca/gba-acss/plan-action-2016-en.PDF).

Much like how CRA employees now apply the GBA+ analytical process<sup>77</sup> to assess how specific populations may experience policies, programs and initiatives, the CRA could develop tools, methodologies and/or processes to assist CRA employees in assessing how proposed changes to policies, programs, or processes will impact and/or uphold taxpayer rights, and better understand the potential effects of change on individuals and groups of taxpayers.

Looking at issues in the CRA's service through the lens of the Taxpayer Bill of Rights generally, and specific taxpayer rights, is something the Taxpayers' Ombudsman and the Office of the Taxpayers' Ombudsman has done since its inception. Each of the systemic examination reports of the Taxpayers' Ombudsman addresses specific rights in the Taxpayer Bill of Rights.<sup>78</sup>

If the CRA were to look through the lens of taxpayer right 10, "You have the right to have the costs of compliance taken into account when administering tax legislation," this could help the CRA in creating an action plan to make it easier and less costly for taxpayers to comply. For example, providing additional resources to volunteers of the Community Volunteer Income Tax Program (CVITP) who assist eligible taxpayers through filing their returns. The Taxpayers' Ombudsman has made recommendations for these and other changes to the CVITP in her report, *Reaching Out*.<sup>79</sup>

The CRA could review its external publications through the lens of taxpayer right 8, "You have the right to have the law applied consistently." The CRA could then identify if there are any deficiencies or inconsistencies in the information that may limit taxpayers' ability to self-assess confidently and accurately. Further, the CRA could develop solutions to better support taxpayers, such as providing web-based resources that it could update easily when changes occur, so all taxpayers have access to the same information.

The CRA's Protocol RC4067,<sup>80</sup> between its Compliance Programs Branch and Appeals Branch, provides that appeals officers must refer new information to the Audit Division where an auditor previously requested that information, and the appeals officer may refer other new information back to the Audit Division. In both cases, the auditor will perform additional audit work with the new information and provide a recommendation to the appeals officer.

77 Government of Canada. Status of Women Canada. What is GBA+, online: [cfc-swc.gc.ca/gba-acsc/index-en.html](https://cfc-swc.gc.ca/gba-acsc/index-en.html). Date modified: 2018-12-04.

78 Government of Canada. Office of the Taxpayers' Ombudsman. Systemic Examination Reports, online: [canada.ca/en/taxpayers-ombudsman/programs/reports-publications/special-reports.html](https://canada.ca/en/taxpayers-ombudsman/programs/reports-publications/special-reports.html).

79 Government of Canada. Office of the Taxpayers' Ombudsman, "Reaching Out: Improving the Canada Revenue Agency's Community Volunteer Income Tax Program" (2020) ISSN: 978-0-660-33615-2. Retrieved from: [https://www.canada.ca/content/dam/oto-boc/reaching-out/ARC-PUB-056\\_CVITP-EN-WEB-v1.pdf](https://www.canada.ca/content/dam/oto-boc/reaching-out/ARC-PUB-056_CVITP-EN-WEB-v1.pdf).

80 Government of Canada. Canada Revenue Agency. Protocol between the Appeals Branch and the Compliance Programs Branch of the Canada Revenue Agency, online: <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc4067/protocol-between-compliance-programs-branch-appeals-branch-canada-revenue-agency.html>. Date modified: 2016-01-20.

The CRA should analyze this Protocol through the lens of the taxpayer's perspective and the implications of taxpayer right 4, "You have the right to a formal review and a subsequent appeal" and taxpayer right 5, "You have the right to be treated professionally, courteously, and fairly," to evaluate how the CRA is ensuring impartiality during the reviews in dispute, and how the appeals officers maintain fairness when working together with the auditors during the appeals stage.

The Protocol states

An appeals officer handling an objection has complete decisional independence relative to the recommendation to confirm, vary or vacate the assessment, or make a reassessment. Appeals officers will keep taxpayers/registrants informed of any discussions with auditors in the course of resolving the objection to ensure that the process is fair, open and transparent.

It also states that the appeals officer "[w]ill advise the objector/authorized representative of any discussions with the auditor and/or referral to Audit, and provide copies of the records of these discussions" and "[w]ill explain to the objector/authorized representative the decision reached by the Appeals Division."

On the face of it, it appears the taxpayer receives the right to appeal regarding the auditor's recommendation on the new information because the appeals officer reviews it and makes a decision. However, there is nothing stating the appeals officer is to provide the taxpayer or their representative the opportunity to speak to the auditor's recommendation. In the normal course of filing an objection or appeal, the taxpayer would be able to speak to each of the auditor's decisions. Given the wording of this Protocol, this may not happen and the taxpayer would then be left with no recourse option within the CRA to appeal the decision and would have to seek recourse in the courts. This would also conflict with taxpayer right 10, "You have the right to have the costs of compliance taken into account when administering tax legislation," as taking the matter to court would increase the taxpayer's costs.

## Educating and informing CRA employees and the public on taxpayer rights

### Public information

One of the first steps to understanding the degree to which the Taxpayer Bill of Rights guides the CRA's daily activities and interactions with taxpayers is how the CRA informs both taxpayers and its employees of the rights to which taxpayers are entitled.

Our office reviewed the CRA's, homepages of its two public webpages [canada.ca/en/services/taxes.html](https://canada.ca/en/services/taxes.html) and [canada.ca/en/revenue-agency.html](https://canada.ca/en/revenue-agency.html), the homepage of its internal website (InfoZone), and its most commonly used online portals, My Account<sup>81</sup> and My Business Account<sup>82</sup>. On none of these was there a hyperlink to the Taxpayer Bill of Rights.

In addition, our Office examined the CRA's social media and found the Taxpayer Bill of Rights was not hyperlinked to, nor on, its Facebook,<sup>83</sup> Twitter,<sup>84</sup> YouTube,<sup>85</sup> or LinkedIn<sup>86</sup> main pages. A review of the content of the CRA's social media posts demonstrates it does not regularly post about taxpayer rights or the Taxpayer Bill of Rights, and has not done so since May 2017, when it acknowledged the 10th anniversary of the Taxpayer Bill of Rights on Twitter. In February 2019, the CRA missed a prime opportunity to bring attention to the Taxpayer Bill of Rights when it released a rebranded version of its Taxpayer Bill of Rights poster.<sup>87</sup>

Since receiving a draft of this report, the CRA has moved a hyperlink to the Taxpayer Bill of Rights to one of its homepages, [canada.ca/en/revenue-agency.html](https://canada.ca/en/revenue-agency.html), under the heading "About the Canada Revenue Agency." However, there is no hyperlink to the Taxpayer Bill of Rights from the Government of Canada's main taxes theme webpage, [canada.ca/en/services/taxes.html](https://canada.ca/en/services/taxes.html). From this webpage, to find out about taxpayer rights, one must search for the Taxpayer Bill of Rights by name. It is important for the CRA to place the Taxpayer Bill of Rights on both of these landing pages, so visitors to the webpages are proactively informed they have rights when dealing with the CRA. One should not have to know the name "Taxpayer Bill of Rights" to find out they have these rights.

The Taxpayer Bill of Rights and information on taxpayer rights should be easily accessible and its placement should ensure access by all taxpayers, to provide information about taxpayers' rights at "every opportunity possible," as the CRA reported it does in its 2007-2008 Annual Report.<sup>88</sup> When reviewing the placement of similar documents of other tax administrations they prominently feature taxpayer rights on their main page. For example:

- The United States' Internal Revenue Service website, [irs.gov](https://irs.gov), features its Taxpayer Bill of Rights at the bottom of its main page under the heading "Know Your Rights".<sup>89</sup>

81 Government of Canada. Canada Revenue Agency. My Account for Individuals, online: [canada.ca/en/revenue-agency/services/e-services/e-services-individuals/account-individuals.html](https://canada.ca/en/revenue-agency/services/e-services/e-services-individuals/account-individuals.html). Date modified: 2020-04-20.

82 Government of Canada. Canada Revenue Agency. My Business Account, online: [canada.ca/en/revenue-agency/services/e-services/e-services-businesses/business-account.html](https://canada.ca/en/revenue-agency/services/e-services/e-services-businesses/business-account.html). Date modified: 2020-04-20.

83 Facebook, [facebook.com/canrevagency](https://facebook.com/canrevagency)

84 Twitter, [twitter.com/CanRevAgency](https://twitter.com/CanRevAgency)

85 YouTube, [youtube.com/user/CanRevAgency](https://youtube.com/user/CanRevAgency)

86 LinkedIn, [linkedin.com/company/cra-arc](https://linkedin.com/company/cra-arc)

87 Supra note 4.

88 Supra note 9 at p. 22.

89 Government of the United States of America, Internal Revenue Service, [irs.gov](https://irs.gov).

 The Australian Taxation Office's website, [ato.gov.au](http://ato.gov.au), features its Taxpayer Charter at the bottom of its main page under the heading "Getting it right".<sup>90</sup>

A hyperlink to the Taxpayer Bill of Rights should be displayed on the main page of the [Canada.ca](http://Canada.ca) theme "taxes" at [canada.ca/en/services/taxes.html](http://canada.ca/en/services/taxes.html) and on the Canada Revenue Agency's main webpage at [canada.ca/en/revenue-agency.html](http://canada.ca/en/revenue-agency.html) to provide immediate information to visitors on their rights as taxpayers.

The CRA's main resource on the Taxpayer Bill of Rights is Guide RC17 Taxpayer Bill of Rights Guide: Understanding your rights as a taxpayer (Guide RC17).<sup>91</sup> This is the primary product created by the CRA to provide information to taxpayers on their rights. It outlines each right and the recourse to which taxpayers are entitled if they feel their rights are violated. Our office found in some cases, the order in which the CRA provides information can de-emphasize the rights-based recourses taxpayers are entitled to pursue when they feel their rights are not respected.

For example, taxpayer right 4, "You have the right to a formal review and a subsequent appeal," is specific in guaranteeing access to the CRA's formal review and appeal processes. However, the information in Guide RC17 discourages taxpayers from immediately appealing a decision in favour of an informal, alternate solution. Specifically, the CRA indicates:

disagreements can be caused by a lack of information or by simple miscommunication.  
**Before you send an objection or appeal a CRA decision**, contact us to obtain an explanation of your notice. Also, if you have new or additional information, you can request an adjustment. However, talking to us will not delay the deadline for sending an objection or an appeal. [emphasis added]<sup>92</sup>

The CRA does provide additional information that directs taxpayers on how to submit a formal review and subsequent appeal; however, it follows the proposed alternate solution. We agree with providing information on alternate methods of resolving issues. However, there is some risk that if the taxpayer follows the informal resolution path, and they submit an appeal at a later time, the CRA may reject the appeal due to the time restrictions surrounding this process. The CRA should make a clear distinction in the guide between taxpayers' rights-based recourses and alternate solutions, and ensure the former is always presented prominently.

<sup>90</sup> Government of Australia, Australian Taxation Office, [ato.gov.au](http://ato.gov.au).

<sup>91</sup> Supra note 51.

<sup>92</sup> Ibid at p. 5.

When reviewing the CRA's program-related webpages, we found the CRA did not regularly make a connection between the content of its pages and the applicable taxpayer right, nor did it provide a hyperlink to Guide RC17. For example:

- Even though taxpayer right 16, "You have the right to lodge a service complaint or request a formal review without fear of reprisal," indicates taxpayers are protected against reprisal after submitting a service complaint, there is nothing on the CRA's complaint webpage<sup>93</sup> reinforcing to visitors the safeguards against reprisal in place for taxpayers. Further, there are no hyperlinks provided to Guide RC17, which describes this right.
- The content of the CRA's webpage "Service Standards in the CRA" is directly connected to taxpayer right 13 "You have the right to expect us to publish our service standards and report annually;" however, the page does not make reference to the fact that published standards are a right. The information that appears first on the page reads, "With the Check CRA Processing Times tool, you can quickly find out when you can expect us to complete your request or get back to you."<sup>94</sup> This misconstrues the purpose of service standards as simply useful information for people to set their expectations for processing times, rather than a taxpayer's right to accountability from the CRA.

While simply making the Taxpayer Bill of Rights readily available to taxpayers is not sufficient to be considered upholding the rights, it is a starting point that would assist in the CRA's transformation. We acknowledge the attempts the CRA is taking to incorporate taxpayer rights. The CRA needs to go further to ensure:

- The Taxpayer Bill of Rights is displayed prominently on its webpages and public facing information.
- The Taxpayer Bill of Rights and taxpayer rights are regularly specifically referred to on its webpages, public facing information, and hyperlinks provided.
- The values outlined in the taxpayer rights are incorporated into the CRA's webpages and public facing information.

## Internal information

The homepage of the CRA's internal website, InfoZone, does not contain a hyperlink to the Taxpayer Bill of Rights or a hyperlink to any information on it. One has to select "About – CRA" and then "About the Taxpayer Bill of Rights." As in Guide RC17,<sup>95</sup> on this internal "About the Taxpayer Bill of Rights" webpage, the CRA presents its values as the underpinning of the Taxpayer Bill of Rights, stating the

93 Government of Canada. Canada Revenue Agency. Submit a service feedback, online: [canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/complaints-disputes/make-a-service-complaint.html](https://canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/complaints-disputes/make-a-service-complaint.html). Date modified: 2020-02-10.

94 Government of Canada. Canada Revenue Agency, Service Standards in the CRA, online: [canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/service-standards-cra/service-standards-2019-20.html](https://canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/service-standards-cra/service-standards-2019-20.html). Date modified: 2020-04-04.

95 Supra note 51.



Taxpayer Bill of Rights “**builds upon** the CRA’s mission, vision, promise, and values...” [emphasis added]. The CRA’s mission, vision, promise and values should build upon the foundation of the values in the rights in the Taxpayer Bill of Rights.

On the “About the Taxpayer Bill of Rights” page on the CRA’s internal website, there are hyperlinks with each right. However, unfortunately, these hyperlinks all link to the CRA’s Guide RC17. Guide RC17 is a public-facing document created by the CRA to explain taxpayer rights. CRA employees need an explanation of each right in relation to how CRA employees are to incorporate upholding these rights into their daily activities, duties and interactions with taxpayers. The internal “About the Taxpayer Bill of Rights” webpage is a prime location for the CRA to express to its employees the foundational nature of the Taxpayer Bill of Rights and the importance of taxpayer rights.

Our office finds there is a lack of consistency in the information the CRA provides through hyperlinks from its internal webpages, on the Taxpayer Bill of Rights. For example, some webpages provide hyperlinks to the Taxpayer Bill of Rights section of the CRA’s 2016-17 Departmental Results Report,<sup>96</sup> others provide hyperlinks to Guide RC17,<sup>97</sup> and some provide hyperlinks to the CRA’s internal website on the Taxpayer Bill of Rights. All these sources provide information that was created to be external facing, to provide information to the public on taxpayer rights. This information therefore does not provide the requisite instruction and information for CRA employees on how to uphold and embody taxpayer rights in their daily duties and interactions.

Furthermore, in providing different hyperlinks to various webpages containing different information on the Taxpayer Bill of Rights, the CRA is providing inconsistent information on taxpayer rights to its employees. This creates an inconsistent understanding among CRA employees of taxpayer rights and their importance, leading to the inconsistent application of taxpayer rights, which can negatively impact taxpayers.

In many cases, the CRA does not place importance upon information in the Taxpayer Bill of Rights in internal products. For example, the CRA has a web-based technical help resource titled “Individual Services Technical Help Guide” for its call centre employees. The CRA states it is a “destination for all [CRA employees’] individual tax information needs.” However, in this Help Guide resource there is no specific information on taxpayer rights or the Taxpayer Bill of Rights. It does address some taxpayer rights under the heading “Rights and recourse,” such as taxpayer relief requests, complaints, filing an objection, and access to information and privacy, but does not state these are rights – only gives information on how to process such requests.

Under the “Service complaints” topic in this Help Guide, it states, “The taxpayer’s right to go to the Office of the Taxpayer’s [sic] Ombudsman for a final impartial review of their service complaint **is based on the service rights** outlined in the Taxpayer Bill of Rights” [emphasis added]. This further

96 Government of Canada. Canada Revenue Agency. 2016-17 Departmental Results Report, online: [canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/departamental-performance-reports/2016-17-departmental-results-report/txpyrblrights-en.html](https://canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/departamental-performance-reports/2016-17-departmental-results-report/txpyrblrights-en.html). Date modified: 2017-10-04.

97 Supra note 51.

demonstrates the CRA's disconnect when creating resources for its employees. There is no specific right in the Taxpayer Bill of Rights entitling taxpayers to file a complaint with the Office of the Taxpayers' Ombudsman. A taxpayer's right to file a complaint with our office arises from the Order in Council creating the position of Taxpayers' Ombudsman.<sup>98</sup>

In the CRA's Employer Compliance Audit Manual, there is a section titled "Taxpayers' rights – ECAM." Under the heading "Taxpayer Bill of Rights" the CRA informs its employees:

At all times, from the first to the last contact, EC auditors must respect the rights of taxpayers according to the Taxpayer Bill of Rights. Taxpayers are entitled to:

- the right to service in both official languages
- fair treatment
- courtesy and consideration
- privacy and confidentiality
- access to complete, accurate, and clear information
- every benefit allowed under the law

We acknowledge the CRA's efforts to incorporate information on taxpayer rights in this manual. Unfortunately, by providing an incomplete list of taxpayer rights without detail, the CRA limits employees' knowledge base. This is then reflected in the interactions those employees have with taxpayers.

In reviewing program-specific manuals, the CRA either does not make any linkages, or does not make clear linkages, between employee conduct and taxpayer rights. When we provided preliminary findings to the Minister of National Revenue on this issue, we provided the example of the Service Complaints Program Procedures Manual. At that time we found this manual should convey a clearer message of the importance of taxpayer rights as the basis of all interactions with taxpayers. We provided the example of one section in the manual that states if more information is required from a taxpayer, telephone contact is preferable. If no contact is made, the alternative is to send a letter. The manual provided no rationale as to why telephone contact is preferred or why the CRA recommends a certain number of call attempts before an employee switches to communication via letter. This would have been a great opportunity to reinforce taxpayer rights by, for example, reminding employees to take taxpayers' right to timely information into consideration.

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98 Supra note 1.



The CRA responded by stating:

The Service Complaints Program (SCP) notes your observation. Although no rationale is provided in the manual, Service Complaints Officers are aware and are reminded on a regular basis that contact by phone is preferable, as they can gather additional information and/or clarification from the taxpayer, thus helping to address the issues accurately and in a timelier manner.

This response did not indicate how Service Complaints Officers are made aware of this information. The Service Complaints Program Procedures Manual would be an excellent place to address these rights. We note the Service Complaints Program Procedures Manual is no longer available on the CRA's internal website as it "has been removed pending the release of the updated Service Complaints Program Manual". This is a prime opportunity for the CRA to incorporate the values from the Taxpayer Bill of Rights as well as specific linkages between the CRA employee's conduct and duties, and taxpayer rights.

In our preliminary findings provided to the Minister of National Revenue, we also provided the Income Tax Audit Manual (ITAM) as an example of where the CRA could make better linkages between employee contact and taxpayer rights. We provided the example of the section "Auditor's standards of conduct, authorities, and responsibilities," which provides instruction on auditor conduct but there were no distinct or specific expectations set for the auditor when conducting an audit.<sup>99</sup> The auditor is directed instead to the CRA's Code of integrity and professional conduct, the CRA's general reference document for all employees. We noted this gap as the audit process differs from other CRA-taxpayer interactions in terms of the potential sensitivity of information, the interpersonal nature of the interaction, and the taxpayer experience; however, there is no reference to auditor-specific conduct or behaviour related to situations and circumstances unique to the role of auditor. Taxpayers have the right to expect an auditor will behave in a professional and fair manner while conducting the audit; therefore, we see a clear opportunity to insert and reinforce taxpayers' rights in this manual.

In response, the CRA stated the ITAM contains over 40 references to the Taxpayer Bill of Rights, in ten different chapters. As an example, the CRA stated that in the section on the final interview/meeting, the procedures listed reference the CRA values of integrity, professionalism, respect, and collaboration, as well as the TBR. While it has no explicit guidance of auditor-specific conduct or behaviour, the ITAM reinforces that the TBR be considered during various stages of the audit. Telling the auditor to consider rights and obligations, along with the code of conduct and specific references throughout the ITAM arguably reinforces expectations with respect to CRA auditors' conduct and interaction with a taxpayer.





99 Government of Canada. Canada Revenue Agency. Income Tax Audit Manual, section 4.2.0, online: <https://www.canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/access-information-privacy-canada-revenue-agency/virtual-reading-room/income-tax-audit-manual-domestic-compliance-programs-branch-dcpb-2.html>. Date modified: 2016-08-02.

Our office agrees doing this “**arguably** reinforces expectations with respect to CRA auditor’s conduct and interaction with a taxpayer” [emphasis added]. However, it would be better to **ensure** this reinforcement explicitly.

In the ITAM the CRA states a “quality audit” is one in which “the auditor has adhered to the Taxpayer Bill of Rights.” However, on the whole, the ITAM does not provide auditors with information on how to apply the Taxpayer Bill of Rights in conducting an audit.

The CRA does a good job of peppering references to the Taxpayer Bill of Rights and the rights of taxpayers throughout the ITAM. This is very important for any CRA products as it continuously reinforces the importance of taxpayer rights. However, most commonly in the ITAM, the CRA provides hyperlinks to the Taxpayer Bill of Rights and chapter 3 of the ITAM for information on taxpayer rights.

Chapter 3 of the ITAM is titled “Taxpayer Rights and Taxpayer Relief.” Most of the references to taxpayer rights throughout the ITAM simply reference back to this chapter. The topics covered in this chapter are:

-  Taxpayer relief provisions
-  Voluntary Disclosures Program
-  Privacy and confidentiality
-  Appeals – formal review

Unfortunately, this is an incomplete list of taxpayer rights and although a hyperlink to the Taxpayer Bill of Rights is provided, the CRA does not list all the rights in the ITAM. Given so many parts of the ITAM refer to chapter 3, this chapter should provide information on all the rights within the Taxpayer Bill of Rights.

In the “Overview” section, the CRA states:

The CRA operates on the basic belief that taxpayers are more likely to comply with the law if they have the information, advice, and other services they need to meet their obligations. In an effort to make sure that taxpayers are aware of their obligations, their entitlements, and their rights, the CRA has published the Taxpayer Bill of Rights on the CRA Web site.

The Taxpayer Bill of Rights is a set of 16 rights confirming the CRA will serve taxpayers with a high degree of accuracy, professionalism, courtesy, and fairness. Taxpayers have the right to privacy and confidentiality and they also have the right to complete, accurate, clear, and timely information. Taxpayers have the right to have the law applied consistently.

The Taxpayer Bill of Rights includes the Commitment to Small Business, a five-part CRA pledge to support the competitiveness of the Canadian business community by ensuring that interaction with the CRA is as effective and efficient as possible.

Providing a statement with a general overview of the Taxpayer Bill of Rights is important. However, it is prefaced by and based upon the view that taxpayer rights only matter because they help make sure taxpayers are more compliant. This is reminiscent of the Chief Service Officer's service transformation initiative. On its internal "Agency Transformation" webpage, it ties its "People First philosophy" to ensuring "compliance on behalf of governments across Canada..." The CRA needs to ensure it is conveying the message to its employees that taxpayer rights exist irrespective of anything else. While the CRA has a mandate to collect taxes, it must respect taxpayer rights because those rights exist. The fact that respecting these rights increases compliance is important but is not the basis for taxpayer rights.

In chapter 3 of the ITAM, the CRA takes the opportunity to stress the importance of some rights, such as stating, "One of the underlying principles of the Canadian tax system and a right identified in the CRA's Taxpayer Bill of Rights is the right to privacy and confidentiality..."

The CRA also specifically speaks to some other rights in chapter 3 but although it appears to provide more detail, what it provides is more of a restatement of the right, and the "how" of applying the right is not as clear. For example, under the heading "Appeals – formal review", the CRA states:

Under the Taxpayer Bill of Rights, taxpayers have the right to receive entitlements and to pay no more and no less than what is required by law. Taxpayers have the right to have the law applied consistently. If taxpayers believe that they have not received the full benefit of their entitlements and have been unable to reach an agreement with Audit on an income tax or penalty and/or interest matter, they have the right to a formal review of their file. In these situations, Appeals officers, who were not involved in the original decision, conduct a formal and impartial review.

This statement explains the existence of the right and explains when one may be entitled to an appeal or formal review. However, it does not explain how the auditor can ensure they respect this right, for example by informing them of this right.

The ITAM does have a chapter titled "Objections and Appeals." Therefore, one would expect to find more detailed information in this chapter about the fact taxpayers have the right to a formal review and a subsequent appeal, and how auditors can practically apply it in their daily duties. However, in the "Objections and Appeals" chapter, the focus is more on the technical aspects such as time periods, how to file a notice of objection, and time limits for filing a notice of appeal with the Tax Court of Canada.

There is nothing in the "Objections and Appeals" chapter stating taxpayers have the right to an objection or appeal. The first mention of rights is in the section "Restrictions" where the CRA starts by speaking on restricting a taxpayer's right to an objection or appeal. The CRA states "Taxpayers are subject to certain restrictions of their objection rights..." The message this sends is that restricting the right to an objection or appeal is more important than acknowledging and respecting the right to an objection or appeal.

At the end of the “Objections and Appeals” chapter, the auditor is directed to “Other references and related topics” and hyperlinks to the Taxpayer Bill of Rights and chapter 3 are provided. Given what little information is in chapter 3 on the right to objection or appeal (as noted above), the ITAM does not place appropriate importance on the right to a formal review and appeal. The CRA is not properly instructing auditors in how to uphold this right in their daily activities.





Generally, the CRA’s manuals and procedures give direction as to how to perform tasks. The one taxpayer right generally well covered is taxpayer right 3, “You have the right to privacy and confidentiality.” If other taxpayer rights are mentioned, they often are not identified as a right and if they are identified as a right, a very brief description is provided or the reader is referred elsewhere.

## Training

It is important the CRA ensure all its employees are properly trained in understanding the importance of taxpayer rights, and how upholding taxpayer rights applies to their specific duties. This applies not only to CRA employees with direct interactions with taxpayers. It equally applies to CRA employees who provide internal services. These employees are part of the entire CRA and its culture with respect to taxpayer rights. For example, Information Technology employees must consider taxpayer rights to ensure digital services are user friendly and clear; and systems are not developed in silos which would result in CRA employees not having access to all the information they need to assist taxpayers (taxpayer right 5, “You have the right to be treated professionally, courteously, and fairly,” taxpayer right 6, “You have the right to complete, accurate, clear, and timely information” and taxpayer right 10, “You have the right to have the costs of compliance taken into account when administering tax legislation”).




A review of the training available to the CRA’s employees revealed insufficient course material on the topic of the Taxpayer Bill of Rights. In fact, after extensive review of a selection of training products across the various CRA programs,<sup>100</sup> we found only one course exclusively on the topic of the Taxpayer Bill of Rights. In other training materials there are only infrequent references to the Taxpayer Bill of Rights or taxpayer rights although the values in the taxpayer rights do appear in training materials. This is a lost opportunity. CRA employees are not being trained in the importance of taxpayer rights and the actual linkages between the taxpayer rights and their duties.

The CRA’s Corporate Mandatory Training module currently includes seven mandatory courses that all CRA employees are required to take:

-  Security Awareness
-  Understanding the Pay Cycle, Pay Calendar and Pay Stub
-  Overview of Relevant HR-to-Pay Interface
-  Code of integrity and professional conduct

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<sup>100</sup> See Annex A for a list of training material reviewed.

-  Health and Safety for Employees
-  Work Place Violence Prevention
-  How to use a fire extinguisher

None of this mandatory training addresses taxpayer rights with the exception that the courses on the Code of integrity and professional conduct and security awareness indirectly touch on elements of taxpayer rights, such as professionalism, privacy, and integrity.

Some training products appear to address certain elements of taxpayer rights but do not make the important linkages to the Taxpayer Bill of Rights. For example, auditors in the Small and Medium Enterprise Directorate and Goods and Services Tax/Harmonized Sales Tax auditors must take the training HQ1385-000 – Commitment to Small Business. The Commitment to Small Business training is intended to

assist auditors and examiners to become more sensitive to the needs and realities of small businesses, and ensure that audits/examinations are carried out in a professional manner that reflects the Taxpayer Bill of Rights and the CRA's Commitment to Small Business.




The HQ6910-000 – Service First! “focuses on service excellence training for Call Centre Telephone Agents.” TD3602-000 – Plain Language at the CRA is intended to “improve the clarity of your texts by showing you how to apply plain language principles.”

In response to our preliminary findings report to the Minister of National Revenue, the CRA pointed to training products HQ1385-000 – Commitment to Small Business and HQ1077-000 – GST/HST and Basic Audit Skills – Job Aid, as products that “have content that addresses auditor sensitivity to the relationship with registrants and their rights.”

It is important for the CRA to ensure it properly trains its employees in upholding taxpayer rights in their daily duties. Ensuring CRA employees understand and apply the linkages between the conduct expected of them and taxpayer rights should be a crucial part of the CRA employee's training. The CRA recognized this and stated:

...the Scientific Research and Experimental Development (SR&ED) Program has previously looked at its Claims Review Manual to ensure that the TBR [Taxpayer Bill of Rights] was integrated in the manual, and it is satisfied that it has a good start on incorporating the values, as you suggested. The SR&ED Program notes your suggestions for improvement and recognizes that it could make clearer links in its manuals and training material that allows all employees to connect the TBR in stronger ways to their work.

The one course we identified that considers the Taxpayer Bill of Rights in an intentional manner, is TD1089-000 – Taxpayer Bill of Rights: An Auditor's Perspective. This course was created, and is mandatory, for the CRA's Small and Medium Enterprise Directorate and Goods and Services Tax/Harmonized Sales Tax auditors. When reviewing this course, our office found there were many aspects which would be useful for all employees of the CRA, such as:

-  reinforcing to employees how they are required to uphold the rights outlined in the Taxpayer Bill of Rights
-  providing real life scenarios related to the application of taxpayer rights
-  including detailed information on most rights

The course also contains scenarios auditors would encounter in their work, and could be modified to include scenarios applicable to other workloads, such as assessing, collections, and the CRA's call centre, as well as internal services such as information technology or human resources. Overall, we find the format of this course to be effective in its use of scenarios to connect the abstract rights to concrete, work-related examples, as well as how direct and affirmative it is. The instruction leaves no question that upholding a taxpayer's right is a requirement, not a choice.

For example, for taxpayer right 3, "You have the right to privacy and confidentiality," the direction provided to the participant states "you must properly protect confidential information of the taxpayer. Section 241 of the *Income Tax Act* and section 295 of the *Excise Tax Act* outline the obligations not to disclose information."

In addition, for taxpayer right 6, "You have the right to complete, accurate, clear, and timely information," the course indicates "when a taxpayer or registrant asks you a tax question related to the audit, provide an accurate answer. If you are uncertain, complete research that is appropriate to your audit time frame." This identifies the need to provide accurate information and balance the importance of timeliness.

The course also addresses the CRA's Commitment to Small Business well and describes how an auditor can incorporate the CRA's commitments in their daily work. For example, commitment to small business 5, "The CRA is committed to explaining how we conduct our business with small businesses" and the training indicates "we will help [small businesses] understand what they can expect when we conduct an audit." What is important here is the training does not stop at telling the small business owner what they can expect during the audit but indicates the goal is to ensure the person understands what can be expected during the audit.





This course also provides information connected to taxpayer right 5, "You have the right to be treated professionally, courteously, and fairly." It states, "[b]eing courteous at the outset will help set the tone for the rest of the audit." This is an important aspect to the course, in that it demonstrates by upholding taxpayers rights, the audit process could be smoother for everyone involved and demonstrates the advantage of upholding the Taxpayer Bill of Rights.



While we find there is potential to use this course as a model for training in other areas of the CRA, there is still an opportunity to improve the content as it currently stands. One deficiency we note pertains to taxpayer right 16, “You have the right to lodge a service complaint or request a formal review without fear of reprisal.” The course introduction correctly indicates the right was introduced on June 23, 2013; however, the course material was not actually updated to include a section on the new right. This seems like a particularly significant oversight given the relevance of taxpayer right 16 to those employees with the authority to conduct audits. It also speaks to the lack of frequency with which the CRA updates the course.

We also find the content related to each taxpayer right is brief. While we understand the importance of ensuring information is provided to employees in easily digestible amounts, it is important that information on rights is sufficiently detailed and nuanced to provide employees with clear direction on how to operationalize them in their daily work.

We find the CRA regularly incorporates training relating to the legislated taxpayer rights regarding privacy, confidentiality and access to information, in its various training materials for specific workflows. It also has specific training such as:

-  HQ1710-000 – Confidentiality
-  HQ6001 series – Confidentiality for Business Enquiries
-  TD1816-000 – Access Awareness (for the Charities Directorate)
-  TD3504 series – Access to Info and Protection

CRA employees also have access to training provided by the Canada School of Public Service on these rights. In response to recommendations in our office’s report, Acting on ATIP,<sup>101</sup> the CRA advised it “developed an internal directive and training strategy for CRA employees and managers that serves to expand awareness of informal disclosure as well as enhanced training products.”

As to the legislated taxpayer right to service in both official languages, CRA employees have access to training provided by the Canada School of Public Service. The CRA also has the training course TD1525-000 – Official Languages and You. An important part of this training is the focus on the importance of actively offering service in either of Canada’s official languages. Furthermore, the CRA provides many opportunities for employees to obtain training in their second language.

There are benefits for the CRA to increase the knowledge base of all its employees on the Taxpayer Bill of Rights. Scenario-based learning specific to employee roles and/or workloads (such as return and benefit processing, telephone agents, revenue collections, program administrators, internal audit, public affairs and communications, financial management, information technology, human resources, etc.) is one way to accomplish this. With specific, relevant training that builds a tailored yet consistent

101 Supra note 78.

understanding of the rights found in the Taxpayer Bill of Rights across the CRA, employees and management of the CRA may be better equipped to work across existing silos and address internal deficiencies before they become systemic problems.

It is also equally important for the CRA to have internal mechanisms to ensure employees who should receive mandatory and additional training on taxpayer rights have completed the training, understand it, and apply it. In the Auditor General of Canada's 2018 Fall Report 7, Compliance Activities—Canada Revenue Agency, the Auditor General found “the Canada Revenue Agency did not consistently apply tax rules when it audited or reviewed taxpayers’ files.”<sup>102</sup> Specifically, the Auditor General found that the CRA's compliance employees did not uphold taxpayer right 8, “You have the right to have the law applied consistently.” This is despite the fact the training available through TD1089-000 – Taxpayer Bill of Rights: An Auditor's Perspective. This training clearly states auditors must have “sufficient knowledge of legislation and CRA policies” to be “consistent and apply the law correctly” and when an auditor is uncertain of how to apply legislation in a situation, they are to “research the issue and consult [their] team leader.” This training also instructs auditors to document their rationale for an interpretation, so a third-party reviewer can follow the decision-making process. This demonstrates that although the CRA has training available, there were not sufficient internal mechanisms to protect taxpayer rights. This deficiency identified by the Auditor General also shows the need to enhance the training the CRA currently offers to auditors, specifically addressing the deficiencies the Auditor General outlined. Yet the CRA has not updated this training, even after the Auditor General noted the CRA's deficiency in applying tax rules consistently during audits.

In addition to training for employees, we examined the external training module the CRA makes available to teachers, entitled, “Why we need taxes.”<sup>103</sup> The section, “What it means to be a responsible citizen” specifically references the Taxpayer Bill of Rights.<sup>104</sup> Here, the CRA introduces students to the Taxpayer Bill of Rights, with a focus on their responsibilities as taxpayers and the negative effects of the underground economy. While our Office is pleased to see a resource the CRA makes available to the public that provides some education on the Taxpayer Bill of Rights, we find the module is too brief, and appears primarily designed to support the CRA's underground economy strategy, rather than to educate on the Taxpayer Bill of Rights as important unto itself. The training falls short of explaining to the audience the importance and significance of the Taxpayer Bill of Rights.

There are additional opportunities to create public facing training programs that could have a great impact. For example, training volunteers in the CRA's Community Volunteer Income Tax Program on taxpayer rights would provide for a two-fold benefit. As taxpayers themselves, volunteers would gain a better understanding of their own rights, and they could then further educate those they serve on their rights as taxpayers.

102 Government of Canada. Office of the Auditor General of Canada. 2018 Fall Reports of the Auditor General of Canada to the Parliament of Canada, Report 7—Compliance Activities—Canada Revenue Agency, online: [oag-bvg.gc.ca/internet/English/parl\\_oag\\_201811\\_07\\_e\\_43205.html](https://oag-bvg.gc.ca/internet/English/parl_oag_201811_07_e_43205.html).

103 Government of Canada. Canada Revenue Agency. Why we need taxes, online: [canada.ca/en/revenue-agency/services/tax/individuals/educational-programs/why-taxes.html](https://canada.ca/en/revenue-agency/services/tax/individuals/educational-programs/why-taxes.html). Date modified: 2019-01-31.

104 Government of Canada. Canada Revenue Agency. What it means to be a responsible citizen, online: [canada.ca/en/revenue-agency/services/tax/individuals/educational-programs/why-taxes/how-responsible-citizen.html](https://canada.ca/en/revenue-agency/services/tax/individuals/educational-programs/why-taxes/how-responsible-citizen.html). Date modified: 2019-01-31.



As recommended above, with respect to “Putting taxpayer rights into practice,” the CRA needs to apply the taxpayer rights lens to all its training for CRA employees. The CRA needs to ensure all its training is respectful of taxpayer rights, clearly explains the applicable taxpayer rights, and ensures it clearly makes the linkages for employees to learn to uphold taxpayer rights in the execution of their daily duties.










## Corporate documents

Corporate documents shape the CRA's approach to many things, including taxpayer rights. This includes inward-facing documents that shape the CRA's governance structure and internal administrative policies. Likewise, inward-facing (internal) services are also important to the CRA's overall view on taxpayer rights. The importance of taxpayer rights needs to permeate every area of the CRA. It is not just the program and outward facing areas of the CRA that need to incorporate and embody taxpayer rights. The CRA has shown its understanding of this concept in their service culture initiative where they have clearly indicated that service is not just about when one is actually dealing with a taxpayer. The CRA has espoused that service culture permeates the CRA and every internal service must adapt and change to be service oriented. Likewise with taxpayer rights.

### Foundation Framework for Corporate Policy

One of the most foundational documents the CRA uses to set out its “overarching principles and requirements for the corporate policy function and all corporate policy instruments,” is its internal document the CRA Foundation Framework for Corporate Policy (Foundation Framework). It is an administrative document the CRA uses to develop and set requirements for all corporate policies at the CRA, and its corporate policy instruments such as corporate policy frameworks, policies, directives, standards, procedures, guidelines, and equivalent instruments. This includes the CRA's Code of integrity and professional conduct.<sup>105</sup>

The Foundation Framework identifies the following areas covered by the corporate policy instruments:

- |   |  |
|---|--|
|  Administration                |  Communications and public affairs          |
|  Enterprise risk management    |  Financial management                       |
|  Human resources               |  Information management                     |
|  Information technology        |  Management of assets and acquired services |
|  Security and internal affairs |  |

<sup>105</sup> Government of Canada. Canada Revenue Agency, “Code of integrity and professional conduct: How we work.” Retrieved from: [canada.ca/content/dam/cra-arc/migration/cra-arc/crrs/wrkng/cdtgrtyprfndct-eng.pdf](https://canada.ca/content/dam/cra-arc/migration/cra-arc/crrs/wrkng/cdtgrtyprfndct-eng.pdf).

When we reviewed the Foundation Framework, we found no direct reference to the Taxpayer Bill of Rights or taxpayer rights. Because the Foundation Framework plays such an integral role in shaping the CRA's activities, integrating the Taxpayer Bill of Rights in it could have a large impact on the CRA and its employees upholding taxpayer rights. To illustrate that the CRA truly sees taxpayer rights as foundational, it needs to incorporate the Taxpayer Bill of Rights into its Foundation Framework. Specifically, the Foundation Framework could require the CRA to integrate the values in taxpayer rights, as well as specific references to the Taxpayer Bill of Rights into the CRA's corporate policy instruments, training, and all other products. It is in the Foundation Framework that the CRA could start with the requirement to assess every product, program, workflow, etc., through the lens of taxpayer rights. This would have a direct positive impact on taxpayers.

For example, when looking at the effect integrating the Taxpayer Bill of Rights could have in information technology corporate policy instruments, some may question how taxpayer rights apply. Yet information technology establishes the way in which many taxpayers interact with the CRA: through portals. Therefore, approaching information technology in a way that upholds, for example, taxpayer right 10, "You have the right to have the costs of compliance taken into account when administering tax legislation," would benefit taxpayers. Specifically, it may lead to more opportunities to streamline processes for taxpayers by looking at it through the lens of taxpayers having the right to low compliance costs. This can be done by adapting technological changes with a focus on minimizing the time, effort, and costs taxpayers have to incur to comply with the tax and benefit legislation the CRA administers.<sup>106</sup>

### **Code of integrity and professional conduct**

The CRA requires its employees to review the CRA's Code of integrity and professional conduct (the Code)<sup>107</sup> when they start working with the CRA, annually, and when an employee changes positions within the CRA. In our review of the Code, we found elements supporting the principles of the Taxpayer Bill of Rights. For example, the Code references the CRA's core commitments, which include safeguarding taxpayer information and privacy, clearly reflecting taxpayer right 3, "You have the right to privacy and confidentiality," and makes employees aware of consequences of misconduct, which partially supports taxpayer right 11, "You have the right to expect us to be accountable."

However, we found overall, the Code failed to take advantage of the opportunity to explicitly inform employees of their obligation to uphold the rights of taxpayers in their daily work at the CRA. The only direct reference to the Taxpayer Bill of Rights is "The Taxpayer Bill of Rights outlines the service that Canadians can expect from us."<sup>108</sup> This is not informative or prescriptive.

<sup>106</sup> Supra note 51.

<sup>107</sup> Supra note 105.

<sup>108</sup> Ibid at p. 11.

The CRA is informative and prescriptive with respect to protecting taxpayer information, which upholds taxpayer right 3, “You have the right to privacy and confidentiality.” For example, the Code states:

You must **never**:

- access any information that is not part of your officially assigned workload, **including your own information**;
- disclose any CRA information that has not been made public without official authorization;
- serve, or deal with the file of, friends, acquaintances, family members, business associates, current or former colleagues, or current or former superiors unless you have obtained prior approval from your manager; or
- use any CRA information that is not publicly available for any personal use or gain, or for the use or gain of any other person or entity.<sup>109</sup>

The CRA is also informative and prescriptive regarding protecting government assets. For example, the Code states:

You are granted access to the systems and information required to perform your job. If you have system access permissions that are not required for your official duties, inform your manager immediately. You must **never disclose your password** for any CRA system to anyone, under any circumstance. See the User Account and Password Management Standards for guidance.<sup>110</sup>

There are many instances in the Code where the CRA sets expectations for its employees, such as under professional image where the CRA states, “You are expected to be clean and well groomed at work...”<sup>111</sup> However, the Code does not outline expectations on how employees should implement or uphold taxpayer rights. The Code is lacking an articulation of taxpayer rights as an obligation each employee must uphold, not simply a set of principles “Canadians can expect,” but may or may not receive.

As one of the few documents CRA employees are required to review and attest to annually, the Code needs to contain clear and specific expectations around the obligation to uphold taxpayer rights. This would allow for more exposure to and understanding of taxpayer rights among all CRA employees.

<sup>109</sup> Ibid at p. 3-4.

<sup>110</sup> Ibid at p. 7.

<sup>111</sup> Ibid at p. 11.

Internal Audit and Program Evaluation

The CRA has an Internal Audit and Program Evaluation webpage in which it states these functions “support the achievement of the CRA’s strategic goals by providing independent and objective information, advice, and assurance on the soundness of the Agency’s operations.”<sup>112</sup> Specifically, it describes the role of the functions as follows:

Internal Audit	Program Evaluation
The practice of internal auditing is a critical means for ensuring effective and appropriate governance. The internal audit function provides professional and independent assurance information focused on improving the overall efficiency, effectiveness and risk management of an organization’s operations. CRA audits are risk-based and focus on the Agency’s strategies and practices related to risk management, management control frameworks, and information used for decision-making and reporting. All audits are conducted in accordance with the <i>International Standards for the Professional Practice of Internal Auditing</i> .	Public service managers are expected to define anticipated results, continually focus attention towards results achievement, measure performance regularly and objectively, and learn and adjust to improve efficiency and effectiveness. Managers are accountable for their performance to senior management, Ministers, Parliament and Canadians.  Evaluation supports managers’ efforts to track and report on actual performance and help decision-makers objectively assess program or policy results. Evaluation contributes to improvements in policy, as well as program design and delivery.

One would assume the CRA’s Internal Audit Policy that is “guided by a philosophy of adding value to improve the operations of the Agency,” and its Evaluation Policy that “contribute[s] to program improvement, support[s] transparency and accountability,” would reference the Taxpayer Bill of Rights. Yet there is no mention of the Taxpayer Bill of Rights or taxpayer rights. This is despite the outcome sought by the CRA from its internal audits and its program evaluations, which is to proactively improve “risk management, control, and governance,” and to “improve programs, policies, and services,” respectively.

Considering the CRA has stated, “trust is the foundation of Canada’s voluntary and self-reporting tax and benefit system,”<sup>113</sup> not including taxpayer rights in the CRA’s Internal Audit Policy or its Evaluation Policy could contribute to an erosion of trust on the part of taxpayers, as checks and balances are not in place to ensure taxpayer rights are upheld.

112 Government of Canada. Canada Revenue Agency. Internal Audit and Program Evaluation, online: [canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/internal-audit-program-evaluation.html](https://canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/internal-audit-program-evaluation.html). Date modified: 2020-02-14.

113 Government of Canada. Canada Revenue Agency, “Summary of the Corporate Business Plan 2015-2016 to 2017- 2018” at p. 19. Retrieved from: [canada.ca/content/dam/cra-arc/migration/cra-arc/gncy/bsnss\\_plns/2015/2015-18-smry-cbp-eng.pdf](https://canada.ca/content/dam/cra-arc/migration/cra-arc/gncy/bsnss_plns/2015/2015-18-smry-cbp-eng.pdf).

Since receiving a draft of this report, the CRA has stated, "...it is the CRA's Internal Audit function that would ensure taxpayer rights are upheld, and not its Internal Audit Policy." We expressed to the CRA that we feel the Internal Audit function would be guided by the CRA's Internal Audit Policy, and asked for clarification of the CRA's statement. The CRA replied

...while the work conducted by the Internal Audit function is guided by the CRA's Internal Audit Policy, it is the tasks and processes of performing an internal audit (the "actual" function of doing an internal audit) that would ensure taxpayers' rights are upheld. The "mere existence" of a policy does not ensure taxpayers' rights are upheld.

As the CRA states, policy guides how work is conducted. One cannot expect the tasks and processes arising out of a policy to uphold taxpayer rights if the policy itself does not establish that expectation.

Although the Internal Audit Policy states its objective is regarding "the oversight of public resources" and "responsible stewardship," upholding taxpayer rights is, and should be, an element of responsible stewardship of public resources. For example, in the CRA's Internal Audit – Application of the Taxpayer Relief Provisions, the stated objective was "to provide assurance that internal controls exist, and are working as intended, to support the effective administration of the taxpayer relief provisions throughout the CRA" and assess "functional leadership, policy development and program direction."<sup>114</sup>

The audit found "a risk of inconsistent application and administration of the taxpayer relief provisions and a possibility of inconsistent treatment of taxpayers." It also found "[t]he existing service standard for the taxpayer relief requests does not reflect a taxpayer centric view of the CRA's administration of the taxpayer relief provisions."<sup>115</sup>




One can see consideration of taxpayer rights in the audit on the Taxpayer relief program. Inconsistent treatment of taxpayers pertains to fairness (taxpayer right 5). Service standards are addressed in taxpayer right 13 and also pertain to accountability (taxpayer right 11) and timeliness (taxpayer right 6). Consciously building consideration of taxpayer rights into the Internal Audit Policy and the Evaluation Policy would help to ensure taxpayer rights are considered in all internal audits and program evaluations, thus helping to ensure the CRA's programs better serve taxpayers.

<sup>114</sup> Government of Canada. Canada Revenue Agency. Internal Audit – Application of the Taxpayer Relief Provisions, online: <https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/internal-audit-program-evaluation/internal-audit-program-evaluation-reports-2018/application-taxpayer-relief-provisions.html>. Date modified: 2018-07-10.

<sup>115</sup> Ibid.

## Performance commitments

One of the primary documents that sets the tone, goals and employee accountabilities for the fiscal year at the CRA is the Executive Performance Commitments Foundation Table and Associated Performance Measures. It contains the mandatory commitments and corporate priorities on which executives at the CRA are expected to deliver. A review of the 2019-2020 version shows neither direct reference to the Taxpayer Bill of Rights, nor an expectation that CRA executives must uphold taxpayer rights. The mandatory commitments are as follows:

-  Leading the effective development, delivery and transformation of Agency policies, programs and services (internal or external) with a focus on key government priorities as described in the last three federal budgets, Budget 2019, and in the Minister's Mandate Letter while ensuring a strong corporate foundation and applying Gender-based Analysis Plus (GBA+) to decision-making.
-  Fostering a high-performing organization through a culture of accountability, transparency and empowerment founded on strong values, ethics, and character leadership.
-  Ensuring the CRA is a world-class tax and benefit administration (WCTBA), adopting a client-centric approach to the design and delivery of programs and services (internal or external), and leading service culture transformation.

All these commitments are important. Also important is including a mandatory commitment regarding ensuring they (the executive) and their employees uphold taxpayer rights in their daily duties. Explicitly tying the existing three mandatory commitments to the accountability to uphold the Taxpayer Bill of Rights would strengthen the existing commitments. Once the executives are committed to upholding the Taxpayer Bill of Rights the effect trickles down to their employees.

Without a clear, top down commitment to put the principles and values of the Taxpayer Bill of Rights into daily practice, widespread adoption of the Taxpayer Bill of Rights among CRA employees cannot take hold, as employees prioritize that which they, and their management, are measured on.

## Departmental Plan

Each year the CRA publishes a Departmental Plan. In its 2019-20 Departmental Plan<sup>116</sup> the CRA describes the purpose of the plan as describing the CRA's core responsibilities and the major environmental factors influencing its five strategic priorities for 2019-20 and looking forward to 2021-22. It then describes the objectives supporting those priorities and the initiatives that will achieve those objectives. It also lays out commitments the CRA is making to Canadians. Finally, it briefly explains the resources Parliament has allotted to the CRA and major reinvestments the CRA is making to bring about the changes it plans.

<sup>116</sup> Government of Canada. Canada Revenue Agency, "2019-20 Departmental Plan." Retrieved from: [canada.ca/content/dam/cra-arc/corp-info/aboutcra/corp-bsns-plan/2019-2022/rvncndp-en.pdf](https://canada.ca/content/dam/cra-arc/corp-info/aboutcra/corp-bsns-plan/2019-2022/rvncndp-en.pdf).

In our preliminary findings report to the Minister of National Revenue, we noted in the CRA's 2018-2019 Departmental Plan,<sup>117</sup> the CRA included a copy of the Taxpayer Bill of Rights but did not provide any context in the report as to why it is included or how it is integrated into the report itself. In response, the CRA indicated it had drafted revised text for 2019-20 Departmental Plan to address our suggestion for improvement. The following is the page on the Taxpayer Bill of Rights in the 2019-20 Departmental Plan.

**Figure 2**

**The Taxpayer Bill of Rights in the CRA's 2019-2020 Departmental Plan**



The Taxpayer Bill of Rights describes the treatment clients are entitled to when they deal with the Canada Revenue Agency (CRA). The CRA operates on the fundamental belief that clients are more likely to comply with the law if they have the information and other services that they need to meet their tax obligations, receive all of their benefits entitlements and understand and can exercise their rights. Clients can expect that the CRA will serve them with high standards of accuracy, professionalism, courteousness, and fairness. The Taxpayer Bill of Rights also sets out the CRA Commitment to Small Business to ensure their interactions with the CRA are conducted as efficiently and effectively as possible.

**COMMITMENT TO SMALL BUSINESS**

**THE CANADA REVENUE AGENCY IS COMMITTED TO**

administering the tax system in a way that minimizes the costs of compliance for small businesses

providing service offerings that meet the needs of small businesses

explaining how we conduct our business with small businesses

working with all governments to streamline service, minimize cost, and reduce the compliance burden

conducting outreach activities that help small businesses comply with the legislation we administer

117 Government of Canada. Canada Revenue Agency, "2018-19 Departmental Plan." Retrieved from: [canada.ca/content/dam/cra-arc/corp-info/aboutcra/corp-bsns-plan/dprtmntpln-18-19-en.pdf](https://canada.ca/content/dam/cra-arc/corp-info/aboutcra/corp-bsns-plan/dprtmntpln-18-19-en.pdf).



The description the CRA provides about the Taxpayer Bill of Rights states:

The Taxpayer Bill of Rights describes the treatment clients are entitled to when they deal with the Canada Revenue Agency (CRA). The CRA operates on the fundamental belief that clients are more likely to comply with the law if they have the information and other services that they need to meet their tax obligations, receive all of their benefits entitlements and understand and can exercise their rights. Clients can expect that the CRA will serve them with high standards of accuracy, professionalism, courteousness, and fairness. The Taxpayer Bill of Rights also sets out the CRA Commitment to Small Business to ensure their interactions with the CRA are conducted as efficiently and effectively as possible.

The CRA provides a little more information on the purpose of the Taxpayer Bill of Rights than in previous years, and now also informs the reader of taxpayers' entitlement to the rights. We recognize this is an improvement from previous years. As outlined previously, we recognize that the CRA upholding taxpayer rights can lead to increased compliance, and this is an important goal in itself. However, by the CRA tying taxpayer compliance to the CRA upholding taxpayer rights, this diminishes the importance of taxpayer rights; or at least gives the impression that the CRA does not respect and uphold taxpayer rights due to the inherent importance of those rights themselves. The CRA should be stating it has a "fundamental belief" in the importance of taxpayer rights.

A simple reference to each taxpayer right or the Taxpayer Bill of Rights is not sufficient for the CRA to demonstrate its obligation to uphold taxpayer rights. For example, in response to our preliminary findings regarding the lack of context about the Taxpayer Bill of Rights in its 2018-19 Departmental Plan<sup>118</sup> the CRA responded "although the 2018-19 DP may not explicitly include "context" that makes a clear link between the TBR and its content, the CRA believes the TBR is integrated in the details of the DP."

Our Office agrees the CRA makes some connections to the principles of the Taxpayer Bill of Rights throughout the 2019-20 Departmental Report. The CRA is better at reflecting taxpayer right 3, "You have the right to privacy and confidentiality," than other taxpayer rights. For example, the CRA clearly states, "Protecting privacy and confidentiality rights is central to the integrity of the CRA."<sup>119</sup>

In contrast, as to taxpayer right 4, "You have the right to a formal review and a subsequent appeal," the CRA presents it as an option "When our clients are not satisfied with a decision from the CRA, they have the option of a fair and impartial process to resolve disputes and request relief."<sup>120</sup> This is actually a step backwards. In its 2018-19 Departmental Plan, the CRA stated, "Every taxpayer who disagrees with an assessment, determination, or decision has the right to register a formal dispute."<sup>121</sup>

118 Ibid.

119 Supra note 116 at p. 32.

120 Ibid at p. 24.

121 Supra note 117 at p. 26.



Our Office finds the focus on service to be an important indicator of the CRA's commitment to upholding taxpayer rights. As well, we are pleased to see under the heading "Core responsibility: Tax", the CRA states one of its tax activities is "informing Canadians of their rights, responsibilities and entitlements..."<sup>122</sup>

However, there is much room for the CRA to improve in reflecting the importance of upholding taxpayer rights in its Departmental Plan. While it is reasonable to acknowledge that addressing each right explicitly in every product is not functional, the CRA's products should lead the reader to unequivocally understand their rights as taxpayers and what the CRA is doing uphold those rights at every possible opportunity. The CRA can accomplish this by incorporating the values of the Taxpayer Bill of Rights and making the linkages between those values, taxpayer rights, and the CRA's stated priorities, objectives, initiatives and commitments to Canadians. As the Departmental Plan is the report to Parliament in which the CRA relays its performance goals for the coming year and communicates its financial and human resources forecast, making these linkages in the Departmental Plan is an important step in ensuring all CRA employees uphold taxpayer rights.

## Reporting on its obligation to uphold taxpayer rights

Taxpayer right 11 states, "You have the right to expect us to be accountable." Even without this right, the CRA has an obligation to not only uphold the rights in the Taxpayer Bill of Rights, but to demonstrate publicly how and how well it upholds those rights. It is important for taxpayers to know they have rights, to know what the CRA plans to do to uphold those rights, and to see how the CRA is upholding those rights. Engaging in the exercise of reporting on how it upholds taxpayer rights also provides the CRA the opportunity to reflect upon what it is doing and to see areas for improvement.

Internationally there are some examples of good practice by tax authorities in reporting on how they uphold taxpayer rights, and therefore demonstrating accountability to their publics.

When the New Zealand Inland Revenue Department (IRD) implemented its Charter in 2001, which outlines the IRD's "commitments to, and standards of service for, taxpayers," it also implemented specific performance reporting mechanisms published in its annual report.<sup>123</sup> These included "quantitative measures, such as number of complaints received and resolved, and qualitative gauges, such as highlighting where new and existing initiatives aligned with commitments under its charter."<sup>124</sup> For example, in its annual report, for the year ending June 30, 2003, the IRD provided a table listing its initiatives and which element of the Charter each initiative supports. Further, it used the elements of its Charter commitments as a heading and provided more detailed information on its activities and initiatives carried out in support of each of one.<sup>125</sup>

<sup>122</sup> Supra note 116 at p. 8.

<sup>123</sup> Supra note 20.

<sup>124</sup> Ibid.

<sup>125</sup> Government of New Zealand. Inland Revenue Department, "Report of the Inland Revenue Department Te Tari Taake: for the year ended 30 June 2003." Retrieved from: [parliament.nz/resource/mi-NZ/47DBHOH\\_PAP9658\\_1/2461dabc5d188115a32f7a52ebfed855550df0e](http://parliament.nz/resource/mi-NZ/47DBHOH_PAP9658_1/2461dabc5d188115a32f7a52ebfed855550df0e).

In the United Kingdom, Her Majesty's Revenue and Customs (HMRC) had a Charter Committee, which met annually and looked at taxpayers' experiences "through the 'Your Charter' lens." A new Customer Experience Committee (CEC) was established in September 2018 to replace the Charter Committee to broaden the focus of the original committee. The CEC "provides challenge and support on customer experience-related issues and monitors HMRC's performance against its customer charter."<sup>126</sup> Results are reported annually in a corporate report dedicated to the charter, entitled Your Charter Annual Report. The most recent report for fiscal year 2018-2019 reflects the use of surveys as an approach to measure the HMRC against the Charter commitments. This report contains survey data on all commitments demonstrating the degree to which the public felt the charter was upheld, and information on current and future initiatives and work conducted by the committee on specific initiatives related to the Charter.<sup>127</sup>

The CRA stresses the importance of upholding the "fairness and integrity of the tax system," in its 2017-18 Departmental Results Report.<sup>128</sup> The CRA's Taxpayer Bill of Rights Guide: Understanding your rights as a taxpayer, states:

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.<sup>129</sup>

The CRA's Departmental Plan is forward looking – outlining its upcoming priorities, objectives, initiatives, and commitments to Canadians, and is one of the CRA's main public corporate documents. Therefore, it provides insight into how the CRA views the importance of publicly accounting for how it upholds taxpayer rights. The CRA's 2019-20 Departmental Plan has a page titled "Departmental Results Framework."<sup>130</sup> These are the performance indicators upon which the CRA must report to the Treasury Board of Canada Secretariat.

126 Government of the United Kingdom. Her Majesty Revenue and Customs, "2018-19 Annual Report and Accounts " at p. 77. Retrieved from: [assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/824652/HMRC\\_Annual\\_Report\\_and\\_Accounts\\_2018-19\\_web\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/824652/HMRC_Annual_Report_and_Accounts_2018-19_web_.pdf).


127 Government of the United Kingdom. Her Majesty Revenue and Customs. Your Charter Annual Report: April 2018 to March 2019, online: [gov.uk/government/publications/your-charter-annual-report-2018-to-2019/your-charter-annual-report-april-2018-to-march-2019](https://gov.uk/government/publications/your-charter-annual-report-2018-to-2019/your-charter-annual-report-april-2018-to-march-2019).

128 Government of Canada. Canada Revenue Agency, "Departmental Results Report 2017-18" at p. 10. Retrieved from: [canada.ca/content/dam/cra-arc/corp-info/aboutcra/dprtmntl-prfrmnc-rpts/2017-2018/2560-9130-en.pdf](https://canada.ca/content/dam/cra-arc/corp-info/aboutcra/dprtmntl-prfrmnc-rpts/2017-2018/2560-9130-en.pdf).

129 Supra note 51 at p. 8.

130 Supra note 116 at p. 42.

**Figure 3****Departmental Results Framework from the CRA's 2019-20 Departmental Plan**



# DEPARTMENTAL RESULTS FRAMEWORK

Core responsibility	Departmental result	Indicator
<b>Tax</b>	<p>Canadians voluntarily comply with their tax obligations, non-compliance is addressed, and Canadians have trust in the CRA.</p> <p>Programs:</p> <ul style="list-style-type: none"> <li>• Tax Services and Processing</li> <li>• Returns compliance</li> <li>• Collections</li> <li>• Domestic compliance</li> <li>• International and Large Business Compliance and Criminal Investigations</li> <li>• Objections and Appeals</li> <li>• Taxpayer Relief</li> <li>• Service Complaints</li> <li>• Charities</li> <li>• Registered Plans</li> <li>• Policy, Rulings, and Interpretations</li> </ul>	Percentage of Canadians who voluntarily participate in the tax system
		Percentage of tax returns filed on time
		Public Perception Index: service experience
		Percentage of businesses registered for GST/HST
		Percentage of external service standard targets met or mostly met
		Percentage of reported tax liabilities paid on time
		Percentage of services available online
		Incremental revenue resulting from budget investments
		Number of individuals helped by the Community Volunteer Income Tax Program
		Incremental debt collected (resolved) resulting from Budget 2016 investments
		Percentage of total volume of improved correspondence (i.e. changes to structure, design, language and format)
		Ratio of collectible tax debt to total net receipts (cash accounting)
<b>Benefits</b>	<p>Canadians receive their rightful benefits in a timely manner.</p> <p>Program:</p> <ul style="list-style-type: none"> <li>• Benefits</li> </ul>	Percentage of respondents satisfied with benefit application processing time
		Percentage of Canada child benefit recipients who provide complete and accurate information in order to receive the proper entitlement
		Percentage of benefit payments issued to benefit recipients on time
		Percentage of taxpayers (benefit recipients) who filed as a result of targeted CRA intervention
<b>Taxpayers' Ombudsman</b>	<p>Canadians have access to trusted and independent review of service complaints about the CRA.</p> <p>Program:</p> <ul style="list-style-type: none"> <li>• Taxpayers' Ombudsman</li> </ul>	Percentage of recommendations made by the Ombudsman to the Minister in systemic examination reports that will be acted upon by the CRA
		Percentage of taxpayer complaints acknowledged within two business days
		Percentage of individual complaint examination files closed within 120 calendar days
<p>Internal services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization.</p>		

The Departmental Results Framework incorporates many of the elements of the rights in the Taxpayer Bill of Rights.<sup>131</sup> Our Office recognizes that the nature of the reporting on these performance indicators to the Treasury Board of Canada Secretariat is such that not all possible indicators are provided to show the CRA's results on everything it achieves throughout the year. However, looking at these indicators provides some information on how the CRA reports on upholding taxpayer rights, and where it could go further to report, through other mechanisms, on how it upholds taxpayer rights.

131 Ibid.

The indicator “Public Perception Index: service experience” shows an element of taxpayer rights. Service generally encompasses many elements of the Taxpayer Bill of Rights, such as professionalism, fairness and timely information. It is important for the CRA to ensure it is finding ways to report on how it upholds all the elements of the Taxpayer Bill of Rights that make up service. The indicator “Number of individuals helped by the Community Volunteer Income Tax Program” reports on one element of taxpayer right 10, “You have the right to have the costs of compliance taken into account when administering tax legislation.” The indicator “Percentage of total volume of improved correspondence (i.e. changes to structure, design, language and format)” will partly show how the CRA is upholding taxpayer right 6, “You have the right to complete, accurate, clear, and timely information.”<sup>132</sup>

The departmental result “Canadians receive their rightful benefits in a timely manner” appears to uphold taxpayer right 1, “You have the right to receive entitlements and to pay no more and no less than what is required by law,” taxpayer right 5, “You have the right to be treated professionally, courteously, and fairly,” and taxpayer right 8, “You have the right to have the law applied consistently.” However, upon reviewing the indicators, there are none addressing any of the taxpayer rights in the Taxpayer Bill of Rights, with the exception of the timeliness aspect of fairness.<sup>133</sup>

In its Departmental Plan the CRA reports on the performance indicators from the previous year’s Departmental Results Framework.<sup>134</sup> It is important for the CRA carefully choose the indicators to show how it is upholding taxpayer rights, as well as the source of the data to ensure the information provided is meaningful and reflective of taxpayers’ experiences with the CRA. This is illustrated by the CRA’s indicator “Percentage of benefit payments issued to benefit recipients on time” which shows the CRA met this 100% of the time in 2017-18.

However, complaints about issues with the Canada child benefit (CCB) is one of the largest areas of complaints to the Office of the Taxpayers’ Ombudsman, and are repeatedly heard by the Taxpayers’ Ombudsman during outreach.<sup>135</sup> One of the main issues with the CCB relates to delays – in getting benefit applications processed, in addressing reviews and verifications of entitlement, and in being able to communicate with the CRA on issues of entitlement. Therefore, what is meaningful to taxpayers is to see how the CRA is upholding their rights in these areas. The CRA’s new performance indicator “Percentage of respondents satisfied with benefit application processing time” will only partially address this need, as it does not look to delays throughout the duration of the taxpayer applying for, proving entitlement, and receiving benefits. This is an area where the CRA should report additional information that is meaningful to taxpayers, on how the CRA is upholding their rights.

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132 Ibid.

133 Ibid.

134 Ibid at p. 49.

135 The Taxpayers’ Ombudsman has opened a systemic examination into issues regarding the impact of the CRA’s administration of the Canada Child Benefit. Government of Canada. Office of the Taxpayers’ Ombudsman. Review of the impact of the administration of the Canada Child Benefit, online: [canada.ca/en/taxpayers-ombudsman/programs/reports-publications/memoranda-minister/review-of-the-impact-of-the-administration-of-the-canada-child-benefit.html](https://canada.ca/en/taxpayers-ombudsman/programs/reports-publications/memoranda-minister/review-of-the-impact-of-the-administration-of-the-canada-child-benefit.html).

The CRA publishes a Departmental Results Report where it reports to the Parliament of Canada on its accomplishments during the previous fiscal year. While the CRA includes elements of the values of the taxpayer rights in the Taxpayer Bill of Rights, the CRA does not reflect that these are rights or make linkages to the Taxpayer Bill of Rights. In its 2017-18 Departmental Results Report, although the Taxpayer Bill of Rights was reproduced in the report, the CRA placed it at the end of the report, and was not tied into the content of the report.<sup>136</sup> The report did not go beyond merely reproducing the 16 rights and outlining the CRA's five commitments to small business. Providing further context and directly connecting taxpayer rights to the departmental results would be a step in the right direction for the CRA to report on how it upholds taxpayer rights.

For example, there is a section "Service standards" and it is in principle directly connected to taxpayer right 13, "You have the right to expect us to publish our service standards and report annually." Yet with a full page dedicated to service standards there is only sentence on the entire page: "The Canada Revenue Agency's 2017-18 service standards are available on this webpage" (with a hyperlink provided).<sup>137</sup> The CRA missed the opportunity here to demonstrate to taxpayers, and to Parliament, that taxpayers have rights, and that by having its service standards available on a webpage it contributes to upholding taxpayer right 13.

In addition, taxpayer right 9, "You have the right to lodge a service complaint and to be provided with an explanation of our findings" and taxpayer right 4, "You have the right to a formal review and a subsequent appeal" are connected to the "Key results: Providing fair and impartial review" detailed in the report.<sup>138</sup> The CRA provides performance data such as "We resolved 7,620 service complaints, compared to 4,480 resolved in the previous year; for 2017-18, 56% of service complaints were resolved within the 30 business day service standard" and "We resolved 93,577 income and commodity tax objections, and reduced the inventory of outstanding regular objections by 11,025, or 21% since March 31, 2016."<sup>139</sup>

Reporting on results in this way not only illustrates specific statistics on processing objections and service complaints, but also provides a comparison to previous years. This shows how the CRA is working to improve upholding those taxpayer rights. This is meaningful to taxpayers. However, the CRA did not address why it did not meet its service standard for processing service complaints or what it is doing to address that deficiency. Where the CRA could also improve upon how it reports these results is to make the linkages to taxpayer rights.

<sup>136</sup> Supra note 128 at p. 76.

<sup>137</sup> Ibid at p. 75.

<sup>138</sup> Ibid at p. 29.

<sup>139</sup> Ibid.

The CRA reports on its legislated obligations regarding taxpayer right 2, “You have the right to service in both official languages,” taxpayer right 3, “You have the right to privacy and confidentiality” and taxpayer right 6, “You have the right to complete, accurate, clear, and timely information”. Each year the CRA provides to Parliament a report on its administration of the *Access to Information Act*. It also reports annually to Parliament on its administration of the *Privacy Act*.<sup>140</sup> Both of these reports are well-established reports and are a requirement of many departments within the Government of Canada.

The CRA's compliance with the *Official Languages Act*<sup>141</sup> is assessed annually by the Treasury Board of Canada, Canadian Heritage, and the Office of the Commissioner of Official Languages. The Treasury Board of Canada provides an annual report to Parliament on the status of official languages programs in federal institutions, including the CRA.<sup>142</sup> The Commissioner of Official Languages produces reports on its activities and demonstrates how the federal government is meeting their responsibilities outlined in the *Official Languages Act*.<sup>143</sup>

In accordance with taxpayer right 13, “You have the right to expect us to publish our service standards and report annually” the CRA publishes service standards and its results, related to many of its services and business lines, including: tax returns, benefits, claims, clearance certificates; pensions, charities applications, GST/HST rulings and interpretations, advance income tax rulings, service complaints, objections, taxpayer relief requests, telephone enquiries, and account updates.<sup>144</sup>

These service standards the CRA reports upon often serve to manage taxpayer expectations for processing timelines, rather than ensure taxpayer rights are upheld and reported upon more generally. For example, for taxpayer relief requests, the CRA explains its service standard “aims to provide taxpayers filing a relief request with a decision on their request within 180 days from the date the request is received at the CRA,” a standard which the CRA “aims to meet” 85% of the time. However, it also indicates this service standard does not apply to “non-resident requests for cancelling or waiving penalties and interest, taxpayer relief requests to accept late, amended, or revoked elections, or requests to issue refunds or to reduce the amount payable beyond the normal three-year period.”<sup>145</sup>

140 Government of Canada. Canada Revenue Agency. CRA's Annual Reports to Parliament on the administration of the Access to Information Act and the Privacy Act, online: [canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/access-information-privacy-canada-revenue-agency/cra-annual-reports-parliament-on-administration-access-information-act-privacy-act.html](https://canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/access-information-privacy-canada-revenue-agency/cra-annual-reports-parliament-on-administration-access-information-act-privacy-act.html). Date modified: 2019-06-19.

141 Supra note 10.

142 Government of Canada. Treasury Board of Canada Secretariat, “Annual Report on Official Languages for Fiscal Year 2017 to 2018.” Retrieved from: [canada.ca/content/dam/tbs-sct/documents/values-and-ethics/official-languages/reports/2017-2018-ol-lo-eng.pdf](https://canada.ca/content/dam/tbs-sct/documents/values-and-ethics/official-languages/reports/2017-2018-ol-lo-eng.pdf).

143 Government of Canada. Office of the Commissioner of Official Languages. Annual reports, online: [clo-ocol.gc.ca/en/publications/annual\\_reports/index](https://clo-ocol.gc.ca/en/publications/annual_reports/index).

144 Supra note 94.

145 Ibid.






While this standard may ensure the greatest number of taxpayers are served within a feasible timeframe for the CRA, it does not indicate how those filers whose returns are not processed within the standard have had their right to timely, clear and accurate information met (taxpayer right 6). Nor does reporting in this way show how the CRA is generally upholding taxpayer right 12, “You have the right to relief from penalties and interest under tax legislation because of extraordinary circumstances.”

The Taxpayers’ Ombudsman recently published a systemic examination report, *Sub-Standard*, on delays and lack of transparency in the CRA’s processing of individual income tax and benefit returns and adjustment requests, which looked extensively at the CRA’s service standards for these returns and adjustments. The examination found many taxpayers are unaware their returns and adjustment requests may be processed by the CRA outside of its published service standards. The CRA does not provide such filers with information on how long it will take to process their return or adjustment request, and the CRA does not reflect the experience of these taxpayers in publishing its services standards.<sup>146</sup> In this regard, the CRA is not reporting completely on the associated taxpayer rights.

Although the CRA reports on some taxpayer rights, the reporting is not inclusive enough and does not address the broader taxpayer rights. There is no single reference point for a taxpayer to see whether and how the CRA is upholding the taxpayer rights outlined in the Taxpayer Bill of Rights.

The CRA also lacks a report connecting its initiatives and changes to programs and services, to taxpayers rights. We reviewed the CRA’s “What we’ve done so far – Improving services at the CRA” webpage and found many of the changes it is making to improve service are also upholding some taxpayer rights. For example:

-  CRA’s online portal for individuals, My Account, was redesigned to be clearer and easier to use. This directly supports taxpayer right 6, “You have the right to complete, accurate, clear, and timely information.”
-  The CRA released a mobile web app for small business owners and sole proprietors allowing users to view their business accounts and make payments on the go. This supports taxpayer right 10, “You have the right to have the costs of compliance taken into account when administering tax legislation.”
-  The CRA states it is “updating its service standards to be more transparent, accurate, consistent, ambitious, and meaningful to Canadians.” This supports taxpayer right 13, “You have the right to expect us to publish our service standards and report annually” and taxpayer right 11, “You have the right to expect us to be accountable.”<sup>147</sup>

146 Government of Canada. Office of the Taxpayers’ Ombudsman, “Sub-Standard: Delays and lack of transparency in the Canada Revenue Agency’s processing of individual income tax and benefit returns and adjustment requests” (2020) ISSN: 978-0-660-33597-1. Retrieved from: [https://www.canada.ca/content/dam/oto-boc/special-reports/ARC-PUB-052\\_OTO%20SystemicReport\\_T1-EN-7\\_WEB.pdf](https://www.canada.ca/content/dam/oto-boc/special-reports/ARC-PUB-052_OTO%20SystemicReport_T1-EN-7_WEB.pdf).

147 Government of Canada. Canada Revenue Agency. What we’ve done so far – Improving services at the CRA, online: [canada.ca/en/revenue-agency/campaigns/serving-canadians-better-cra/improving-services-cra.html](https://canada.ca/en/revenue-agency/campaigns/serving-canadians-better-cra/improving-services-cra.html). Date modified: 2019-04-24.

The deficiency in this webpage, in the context of taxpayer rights, is it only focuses on service. The CRA needs a reporting product that looks at each taxpayer right and identifies how it is upholding that right. The CRA's information on what it is doing to improve service could be included as these initiatives support upholding taxpayer rights. The exercise of creating one reporting product on taxpayer rights will allow the CRA to identify any deficiency it has in upholding certain rights. It will also identify any rights it has not considered in part of its service transformation. While some rights may seem to have been sufficiently addressed and upheld, technological advances continue to transform the way taxpayers interact with the CRA and can impact each right. The website could also be proactive and include the CRA's goals and initiatives. Taxpayers could then see the steps the CRA is taking to uphold its commitments on taxpayer rights. Such a reporting product will support taxpayer right 11, "You have the right to expect us to be accountable" and allow taxpayers to see how the CRA is upholding taxpayer rights.

## Conclusion

For the CRA to ensure it upholds the taxpayer rights in the Taxpayer Bill of Rights, it must ensure an understanding of and respect for taxpayer rights is embedded at every level in the business of the CRA. The Taxpayer Bill of Rights must be one of the CRA's foundational documents, and be seen as such by its employees and the public. The values the Taxpayer Bill of Rights embodies must be reflected in the CRA's products, such as: the documentation, policies and procedures that shape employee culture; training; performance expectations, corporate plans, and corporate reporting.

There are many areas where the CRA mentions the Taxpayer Bill of Rights and many areas where the CRA incorporates the values of the taxpayer rights in its products. The CRA falls short of clearly demonstrating to its employees and the public the importance of taxpayer rights as an end in themselves. It also does not clearly demonstrate it is using the Taxpayer Bill of Rights as the foundation and framework upon which it makes decisions, sets policy, and guides its interactions with taxpayers. There is a lack of consistency and many missed opportunities where the CRA should be better embedding taxpayer rights in its products. The CRA needs to make more mention of taxpayer rights. It needs to make linkages and connections between the values it reflects and the duties of its employees, and the taxpayer rights in the Taxpayer Bill of Rights.

To ensure its employees deliver programs and services, and interact with taxpayers, according to the rights outlined in the Taxpayer Bill of Rights, the CRA must achieve widespread understanding of, and respect for, those rights by its employees. While these employees may have the best intentions to act in accordance with the CRA's values, these values need to come from taxpayer rights, and it is not clear how the CRA is equipping them to uphold the values of the Taxpayer Bill of Rights.



The CRA's employees need to understand the importance of taxpayer rights and the application of those rights both in letter and in spirit, and how upholding taxpayer rights is to be incorporated and respected in all the CRA's workflows and activities. To ensure a foundation of understanding taxpayer rights among all CRA employees, this needs to be done at the Agency-wide level and then built upon in more specific program-related products.

While the CRA does report on some taxpayer rights, it again falls short of addressing the totality of the rights in the Taxpayer Bill of Rights. It also misses the opportunity to draw linkages and connections between its actions and taxpayer rights. The CRA needs to ensure its accountability to taxpayers to show how it upholds their rights and it needs to do so in a manner in which taxpayers see themselves and the importance the CRA places on taxpayer rights.

## Recommendations

To address the issues raised in this report, the Taxpayers' Ombudsman makes the following recommendations to the Minister of National Revenue and the Chair of the Board of Management of the Canada Revenue Agency:

1. The Taxpayers' Ombudsman recommends the Canada Revenue Agency conduct a holistic, Agency-wide review of the way it views and uses the Taxpayer Bill of Rights to ensure it is foundational in the CRA's policy framework, culture, activities and operations.
2. The Taxpayers' Ombudsman recommends the Canada Revenue Agency build its service transformation and service culture upon a foundation of the rights in the Taxpayer Bill of Rights.
3. The Taxpayers' Ombudsman recommends the Canada Revenue Agency create, and require the application of, a methodology to be used to assess how proposed, amended, new, and existing frameworks, policies, procedures, workflows, programs, initiatives, training, etc. impact and uphold the rights in the Taxpayer Bill of Rights, to ensure taxpayer rights are always promoted and upheld.
4. The Taxpayers' Ombudsman recommends the Canada Revenue Agency update its Code of integrity and professional conduct to include an explanation of the rights in the Taxpayer Bill of Rights, employees' obligation to uphold taxpayer rights in their daily work at the CRA, and how they should uphold those rights.
5. The Taxpayers' Ombudsman recommends the Canada Revenue Agency create a general Taxpayer Bill of Rights training course applicable to and mandatory for all CRA employees, as well as additional program-specific Taxpayer Bill of Rights courses for specific workloads. All employees should take these courses and re-take them after any significant update to a course or a change in employee position.

6. The Taxpayers' Ombudsman recommends the Canada Revenue Agency create a public training course on the Taxpayer Bill of Rights and include it as part of the training offered to volunteers of the Community Volunteer Income Tax Program.
7. The Taxpayers' Ombudsman recommends the Canada Revenue Agency ensure its internal products and webpages provide workflow-specific linkages between content and taxpayer rights, and include hyperlinks to one internal webpage containing the Taxpayer Bill of Rights in its entirety, an overview of each taxpayer right, examples of how CRA employees are to uphold taxpayer rights in their daily activities, the recourse options, and any applicable guides and resources.
8. The Taxpayers' Ombudsman recommends the Canada Revenue Agency create mandatory Executive level performance expectations, with specific examples, to ensure their employees at all levels uphold the Taxpayer Bill of Rights.
9. The Taxpayers' Ombudsman recommends the Canada Revenue Agency integrate the Taxpayer Bill of Rights in all CRA facilities in a prominent manner throughout employee work spaces and in any public facing area.
10. The Taxpayers' Ombudsman recommends the Canada Revenue Agency regularly update Guide RC17 Taxpayer Bill of Rights Guide: Understanding your rights as a taxpayer, to include a focus on how the CRA upholds each taxpayer right.
11. The Taxpayers' Ombudsman recommends the Canada Revenue Agency create one external webpage containing the Taxpayer Bill of Rights in its entirety, an overview of each taxpayer right, examples of the application of each taxpayer right, the recourse options, and any applicable guides and resources (the new Taxpayer Bill of Rights webpage).
12. The Taxpayers' Ombudsman recommends the Canada Revenue Agency update its external webpages and public facing products to include the values outlined in the Taxpayer Bill of Rights, specific references to the Taxpayer Bill of Rights, and references or hyperlinks to the new Taxpayer Bill of Rights webpage; and where the information pertains to specific elements of taxpayer rights, to specifically mention those rights.
13. The Taxpayers' Ombudsman recommends the Canada Revenue Agency include on its main external webpages a reference to the Taxpayer Bill of Rights and a hyperlink to the new Taxpayer Bill of Rights webpage.
14. The Taxpayers' Ombudsman recommends the Canada Revenue Agency create an annual report located on the new Taxpayer Bill of Rights webpage, listing the rights in the Taxpayer Bill of Rights, reporting on how the CRA has upheld each of the taxpayer rights, and describing any improvements the CRA has done or plans to do, to uphold each of the taxpayer rights.

## Annex A

All Canada Revenue Agency products examined and/or referenced.

### Training courses

- HQ1077 series – GST/HST Basic Audit Skills
- HQ1149-000 Income Tax Audit Quality Review
- HQ1152-000 Liaison Officer training
- HQ1385-000 – Commitment to Small Business
- HQ1710-000 – Confidentiality
- HQ4920-000 Soft Skills for the Canada Revenue Agency Business Registration Tax Centre Agent
- HQ6001 series – Confidentiality for Business Enquiries
- HQ6019-000 Answering General Enquiries (AGE) – Call Centre New Hires
- HQ6910-000, Service First!
- HQ8029-001 – Quality Assurance, Issues Management, and Third Party Enquiries
- HQ8040-000 Integrity-Based Leadership for Team Leaders
- TD1089-000 Taxpayer Bill of Rights: an Auditor's Perspective
- TD1107-000 Income Tax Audits – General Information
- TD1525-000 – Official Languages and You
- TD1527-000 Discipline – What you should know
- TD1574-000 Managing Difficult Conversations: A Workshop for Leaders
- TD1816-000 – Access Awareness
- TD1923-000 Orientation to Service Complaints
- TD3504 series – Access to Info and Protection
- TD3602-000 – Plain Language at the CRA
- Corporate Mandatory Training:
  - A230 – Security Awareness
  - GS9170-034 – Understanding the Pay Cycle, Pay Calendar and Pay Stub
  - GS9170-035 – Overview of Relevant HR-to-Pay Interface
  - TD1528-000 – Code of Integrity and Professional Conduct
  - TD1599-001 – Health and Safety for Employees
  - TD1599-002 – Work Place Violence Prevention
  - TD1807-000 – How to use a fire extinguisher

## Policies, Procedures, Guides and Manuals

- ATIP Manual
- Audit Quality Review Standards
- Code of integrity and professional conduct
- CRA Foundation Framework for Corporate Policy
- CRA Privacy Policy
- CRA Service Policy Framework
- Employer Compliance Audit Manual
- Enterprise Risk Management (ERM) Policy
- Evaluation Policy
- Guide RC4188, What you Should Know About Audits
- Income Tax Audit Manual
- Individual Services Technical Help Guide (ISTHG)
- Internal Audit Policy
- Policy on Workplace Management
- Procedures for addressing employee misconduct
- Protocol between the Appeals Branch and the Compliance Programs Branch of the Canada Revenue Agency
- Scientific Research and Experimental Development (SR&ED) Claims Review Manual
- Service Complaints Program Procedures Manual
- Service Policy Framework Phase 1

## Other resources and internal webpages

- 2019 Service culture employee survey results
- 2019-2020 Executive (EX) Performance Commitments Foundation Table and Associated Performance Measures
- About – CRA
- About the Taxpayer Bill of Rights
- Agency Transformation
- Associated Performance Measures
- Gender-based Analysis Plus (GBA+)
- Individual Income Tax Enquiries

- InfoZone homepage
- Liaison Officer Service, Informational Seminar
- Security Awareness videos
- Service complaints
- Service Culture Employee Survey
- Taxpayer education – Non-Filer Division

### External information and webpages

- About the Canada Revenue Agency
- Backgrounder: CRA's Chief Service Officer
- Canada Revenue Agency ([Canada.ca](https://www.canada.ca))
- Declaration of taxpayer's rights
- External advisory panel on service
- Facebook
- Internal Audit and Program Evaluation
- LinkedIn
- Mission, vision, promise, and values
- My Account for Individuals
- My Business Account
- RC17 Taxpayer Bill of Rights Guide: Understanding your rights as a taxpayer
- Serving Canadians Better at the Canada Revenue Agency
- Submit a service feedback
- Taxes ([Canada.ca](https://www.canada.ca))
- Taxpayer Bill of Rights
- Taxpayer Bill of Rights / Questions and answers
- Twitter
- What it means to be a responsible citizen
- What we heard – In-person consultations
- What we've done so far – Improving services at the CRA
- Why we need taxes
- YouTube

## Reports

- 2018 Report on Public Service Renewal Results
- Canada Revenue Agency Annual Report to Parliament 2007-2008
- Canada Revenue Agency's Annual Reports to Parliament on the administration of the Access to Information Act and the Privacy Act
  - 2017-2018 Annual Report to Parliament – The Administration of the Access to Information Act
  - 2017-2018 Annual Report to Parliament – The Administration of the Privacy Act
  - 2018-2019 Annual Report to Parliament – The Administration of the Access to Information Act
  - 2018-2019 Annual Report to Parliament – The Administration of the Privacy Act
- Departmental Plans
  - 2017-18 Departmental Plan
  - 2018-19 Departmental Plan
  - 2019-20 Departmental Plan
- Departmental Results Reports
  - Departmental Results Report 2016-17
  - Departmental Results Report 2017-18
- Internal Audit – Application of the Taxpayer Relief Provisions
- Service Standards in the CRA
  - Service Standards 2017-2018
  - Service Standards 2018-2019
  - Service Standards 2019-2020
- Serving Canadians Better – Consultation Summary Report
- Summary of the Corporate Business Plans
  - Our Roadmap for the Future (1999-2000 to 2001-2): Excerpts from Revenue Canada's 1999-2000 Corporate Business Plan (1999-2000 to 2001-2002)
  - Summary of the Corporate Business Plan 2019-2020 With Perspectives to 2021-2022
  - Summary of the Corporate Business Plan 2018-2019 to 2020-2021
  - Summary of the Corporate Business Plan 2017-2018 to 2019-2020
  - Summary of the Corporate Business Plan 2015-2016 to 2017-2018