

## Financial Post

# Tax court aims for speedier resolutions

Jamie Golombek, *Financial Post* · Dec. 3, 2011 | Last Updated: Dec. 3, 2011 6:07 AM ET

If you disagree with the way the Canada Revenue Agency has assessed your tax return, you can try to resolve the matter informally by discussing it with your local CRA tax services office.

If you are still unsuccessful, your next step is to file a Notice of Objection. Once the CRA has reviewed your objection, it will either issue a reassessment or a confirmation that the assessment was correct. You then have 90 days to appeal to the Tax Court of Canada (TCC). Alternatively, you can appeal directly to the TCC if the CRA hasn't responded to your notice within 90 days.

Ever wonder how many people actually end up in court?

Some interesting statistics were released this week at the Canadian Tax Foundation's 63rd annual conference held in Montreal. The CRA's Appeals Branch handles, on average, approximately 80,000 to 110,000 taxpayer objections annually, a number that has increased over the past few years as a result of objections from taxpayers affected by the CRA's audit approach to aggressive tax plans.

Of these objections, about 92% are resolved administratively, with the remaining 8% of taxpayers choosing to take the matter further by appealing to the TCC. Of these appeals, about one-third are settled before the actual trial date and another third are withdrawn by the taxpayer. The final third make it to court.

When appealing to the TCC, you can choose one of two paths: the "general procedure" or the "informal procedure." Under the general procedure, formal court procedures must be closely followed and there are many procedural rules applicable throughout the entire appeals process.

The informal procedure, on the other hand, is intended "to minimize the legal steps involved in the appeal process" and is limited to tax cases in which the amount of federal tax and penalties in dispute for each taxation year, excluding interest, is \$12,000 or less (or \$24,000 for a loss).

In 2010, the tax court heard 1,381 cases under the general procedure and 1,874 cases under the informal procedure, for a total of 3,255 cases. As of Dec. 31, 2010, 6,484 cases awaited trial.

To improve the caseload management of the TCC, last month the government introduced a number of recommended changes for industry consultation. One of the proposals was to increase the informal procedure monetary limits to \$25,000 (\$50,000 for a loss), which would provide taxpayers with "greater access to a simplified and cost-effective judicial process and enabling a better balance in the TCC's caseload."

This proposal, along with a new pilot project launched by law firm Fraser Milner Casgrain LLP in partnership with Pro Bono Students Canada, which would allow law students under the supervision of FMC tax litigators to represent, on a pro bono basis, low-income individuals before the TCC, should provide wider and quicker access to the court system to more efficiently address tax disputes.

The project was developed at the suggestion of TCC Chief Justice Gerald Rip.

? Jamie Golombek, CA, CPA, CFP, CLU, TEP is the Managing Director, Tax & Estate Planning with CIBC Private Wealth Management in Toronto.

Jamie.Golombek@cibc.com

---

[Get the National Post newspaper delivered to your home](#)

© 2012 National Post, a division of Postmedia Network Inc. All rights reserved. Unauthorized distribution, transmission or republication strictly prohibited.