

# Taxpayers' Ombudsman

Annual Report 2011-2012



Government  
of Canada

Gouvernement  
du Canada

Canada

**Office of the Taxpayers' Ombudsman**

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# TAXPAYER BILL OF RIGHTS

1. You have the right to receive entitlements and to pay no more and no less than what is required by law.
2. You have the right to service in both official languages.
3. You have the right to privacy and confidentiality.
4. You have the right to a formal review and a subsequent appeal.
5. You have the right to be treated professionally, courteously, and fairly.\*
6. You have the right to complete, accurate, clear, and timely information.\*
7. You have the right, as an individual, not to pay income tax amounts in dispute before you have had an impartial review.
8. You have the right to have the law applied consistently.
9. You have the right to lodge a service complaint and to be provided with an explanation of [the Canada Revenue Agency'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 Canada Revenue Agency] 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 Canada Revenue Agency] to publish [its] service standards and report annually.\*
14. You have the right to expect [the Canada Revenue Agency] to warn you about questionable tax schemes in a timely manner.\*
15. You have the right to be represented by a person of your choice.\*

\* Service rights upheld by the Taxpayers' Ombudsman

July 18, 2012


The Honourable Gail Shea, P.C., M.P.  
Minister of National Revenue  
555 MacKenzie Avenue, 7<sup>th</sup> floor  
Ottawa, ON K1A 0L5

Dear Minister:

I am pleased to submit, for tabling in each House of Parliament, the fourth Annual Report of the Taxpayers' Ombudsman.

This report provides an overview of the activities and operations of my Office, from April 1, 2011 to March 31, 2012. It highlights our achievements as we assist the Canada Revenue Agency in providing taxpayers with the professional service and fair treatment that they are entitled to.

Yours truly,

A handwritten signature in black ink, appearing to read 'J. Paul Dubé', is written over a large, faint, light-colored watermark of the same signature.

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

July 18, 2012

Ms. Susan J. McArthur, B.A.  
Chair, Canada Revenue Agency Board of Management  
555 MacKenzie Avenue, 7<sup>th</sup> floor  
Ottawa, ON K1A 0L5

Dear Madam Chair:

I am pleased to submit the fourth Annual Report of the Taxpayers' Ombudsman.

This report provides an overview of our activities and operations from April 1, 2011 to March 31, 2012. I trust that the information contained in this document will assist you in your responsibility to oversee the organization and administration of the Canada Revenue Agency.

Yours truly,

A handwritten signature in black ink, appearing to read "J. Paul Dubé". The signature is stylized with a large, looping initial "J" and a cursive "Dubé".

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

## Message from the Ombudsman

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The past year has been a productive one for the Office of the Taxpayers' Ombudsman. My team and I once again assisted thousands of taxpayers in accessing the Canada Revenue Agency (CRA) and obtaining the services they required from it. Our intervention, in a variety of forms and at various levels, led to the resolution of hundreds of misunderstandings and complaints between taxpayers and the CRA.

Day in and day out, we help taxpayers get results that they, or their representatives, were unable to achieve on their own. On occasion, our investigations of complaints result in recommendations to the CRA on how its policies and procedures should be modified in order to provide better service to taxpayers.

On a systemic level, we continued to investigate issues, publish Special Reports, and make recommendations to the Minister of National Revenue aimed at correcting systemic CRA service issues that negatively impact taxpayers. Each Special Report published by my Office has received more media coverage than its predecessor. Last year's Special Report on the Tax-Free Savings Account (TFSA) entitled, "Knowing the Rules," continued that trend. To date, all of my recommendations to the Minister have been accepted with directions to the CRA that they be implemented. By acting as an agent of positive change, my Office is helping the CRA improve its service delivery and treatment of taxpayers. If taxpayers are now receiving written explanations of decisions made by the CRA's Appeals Branch, if applicants for the Canada Child Tax Benefit have more detailed and timely information available to them, and if Canadians are more aware of where to obtain information about the tax rules governing the TFSA, those positive changes are due in no small measure to the work of my Office.

Another important aspect of fulfilling my mandate is increasing awareness among Canadians of the Taxpayer

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Bill of Rights and the role of the Taxpayers' Ombudsman. Being mindful of our responsibility to manage public funds prudently, we seek to raise awareness as effectively and efficiently as possible through strategic outreach initiatives. After all, when you consider the number of Canadians who could potentially require services from the CRA, my Office likely has over 25 million stakeholders. We therefore enlist the collaboration of all stakeholders in communicating our messages. For example, the CRA has distributed thousands of our information guides to taxpayers through its Community Volunteer Income Tax Program as well as in its tax service offices across the country. Several professional associations have also distributed our information materials to their memberships and many Members of Parliament (MP) have included information about the Taxpayers' Ombudsman in their MP householder newsletters. Recently, both H&R Block and Liberty Tax Services agreed to make our information guides, in print and electronically, available at their franchise locations.

Despite travelling a bit less last year, I continued to make presentations to key stakeholder groups and participate in tax practitioner seminars across the country. Invitations from various professional associations and Chambers of Commerce continue to provide valuable opportunities for me to discuss face-to-face with taxpayers and tax professionals the issues of service and fairness they encounter when dealing with the CRA and my role in addressing those issues. One of the complaints I hear most often from taxpayers, or their representatives, is that it feels unfair when they are required to fulfill their obligations pursuant to the tax law or do what the CRA asks of them, yet the CRA is not timely or consistent in the provision of information or assistance to them. On the other hand, I also meet with CRA employees across the country and learn a great deal about the challenges

they face in delivering timely and consistent service to taxpayers. CRA employees tell me that they are committed to providing the highest level of service but that rules and procedures, or even taxpayers themselves, sometimes make that difficult. These discussions are extremely informative and having the perspectives of both taxpayers and the CRA is crucial to being able to develop feasible recommendations for improving the CRA's service to taxpayers.

Another issue we face is the reluctance of some taxpayers to file a complaint with my Office because they fear that doing so might result in harsh treatment from the CRA. In over four years of operation, however, we have never seen or heard of a taxpayer experiencing punitive treatment from the CRA as a result of having filed a service complaint or alleging unfair treatment. In fact, our experience in dealing with nearly 20,000 contacts, opening over 4,000 files and conducting roughly 1,100 investigations has been to the contrary. We regularly see the CRA working very hard, and sometimes taking extraordinary steps, to correct problems we bring to its attention. I would certainly not expect a punitive reaction to a taxpayer complaint about the service or treatment they received from the CRA and we have never seen it. If evidence of such a phenomenon was ever brought to my attention I would certainly address it.

As Taxpayers' Ombudsman, I am committed to keeping stakeholders informed about the issues we encounter and the results we achieve. That is why we were proud to launch two new publications this year, the *Perspectives* newsletter and the *Digest of Taxpayer Service Rights*. These publications will demonstrate on a regular basis the results achieved by the my Office in upholding the Taxpayer Bill of Rights and ensuring that taxpayers receive the professional service and fair treatment they are entitled to from the CRA.

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The *Perspectives* newsletter will enable us to inform stakeholders about our activities and accomplishments, as well as communicate tips and other useful information, in a timelier manner than we can through an Annual Report.

The *Digest of Taxpayer Service Rights* (the Digest) is also an effective platform for demonstrating what we do and the results we achieve. The Digest defines the service rights within the Taxpayer Bill of Rights, outlines what the CRA says about them, provides examples of similar provisions in other tax jurisdictions, and illustrates with case summaries how these rights have been applied to resolve complaints from taxpayers about the way they have been served or treated by the CRA. By highlighting how our intervention leads to the resolution of service and fairness issues between taxpayers and the CRA, the Digest demonstrates how stakeholders are benefitting from the Taxpayer Bill of Rights and an independent and impartial Taxpayers' Ombudsman.

Another highlight of the past year has been my involvement in the Forum of Canadian Ombudsmen. I was honoured to have been elected to the Board of Directors and am privileged to work with a wonderful group of people who are so dedicated to promoting the ombudsman concept in Canada.

The value of a national Taxpayers' Ombudsman is increasingly being recognized around the world. For example, the South African Revenue Service (SARS) is the latest tax administrator to commit to establishing a Tax Ombudsman. We were pleased that the SARS consulted with our Office on implementation issues and best practices. Dealing with a nascent organization brings us back to first principles and serves as a reminder of why this Office was created. As one South African newspaper<sup>1</sup> reported, "Tax issues can be complicated and not everyone has the knowledge or skills to deal with tax authorities, particularly when

they feel they are being treated unfairly. Dealing with tax authorities can be an intimidating and unpleasant experience. In certain instances, taxpayers even back down." It is therefore the role of a Taxpayers' Ombudsman to investigate such matters and ensure that taxpayers are treated fairly.

I was grateful for the opportunity to actually meet one of my foreign counterparts when Pakistan's Federal Tax Ombudsman (FTO), Dr. Muhammad Shoaib Suddle, visited Canada last year. It was enlightening to learn about the mandate of the FTO and discuss issues that arise in our respective jurisdictions. In the future, I hope to meet with more of my international counterparts to discuss issues of common interest and to share best practices.

Looking forward to the year ahead, I see tremendous challenges for both the CRA and the Office of the Taxpayers' Ombudsman. Across Canada, governments at every level are working to balance their budgets. That means that departments and agencies within those governments have to make difficult decisions about how to deliver services and programs with finite resources. In this context, the recent Annual Report of the Ombudsman for Toronto contains comments that are relevant to all public sector ombudsmen. Fiona Crean reminds us that "We all must remain alert in these times of change... This does not mean that we should ignore our financial responsibilities: it does mean that when change is made the imperative for fair and equitable service must remain central."

We at the Office of the Taxpayers' Ombudsman have a valuable role to play in providing constructive feedback to the CRA that will assist it in maintaining appropriate levels of professional service and fair treatment for taxpayers, especially as it deals with its fiscal imperatives.

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1. <http://www.businessday.co.za/Articles/Content.aspx?id=125525>





Interview with Don Martin, host of Power Play, upon release of Annual Report 2010-2011, Ottawa, ON



Kiosk at an Information Fair for the community of Willowdale, ON

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# About the Office of the Taxpayers' Ombudsman

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## Taxpayer Defined

A "taxpayer" means a person who, under the program legislation, is liable to pay tax, is eligible to receive an amount as a benefit, or is provided a service by the Canada Revenue Agency.

**Order in Council - P.C. 2007-0828**

## The Ombudsman

In February 2008, the Taxpayers' Ombudsman was appointed by an Order in Council, which describes the mandate of the Ombudsman as follows:

The mandate of the Ombudsman shall be to assist, advise, and inform the Minister about any matter relating to services provided to a taxpayer by the Canada Revenue Agency (CRA).

The Ombudsman fulfills that role by:

- providing an impartial, efficient, and effective system for handling service complaints;
- helping to improve the quality of, and public confidence in, CRA service by identifying and investigating service and fairness issues;
- facilitating access by taxpayers to the CRA;
- developing community awareness of the Ombudsman and his role; and
- making recommendations directly to the Minister of National Revenue on how CRA service can be improved.

The Ombudsman is not authorized or mandated to review matters that arose more than one year before his appointment, nor can the Ombudsman review the administration or enforcement of CRA legislation except to the extent that the matter raises a service issue.

The Ombudsman is mandated to uphold the eight service articles within the Taxpayer Bill of Rights.

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

**Article #6** You have the right to complete, accurate, clear, and timely information.

**Article #9** You have the right to lodge a service complaint and to be provided with an explanation of [the Canada Revenue Agency's] findings.

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

**Article #11** You have the right to expect [the Canada Revenue Agency] to be accountable.

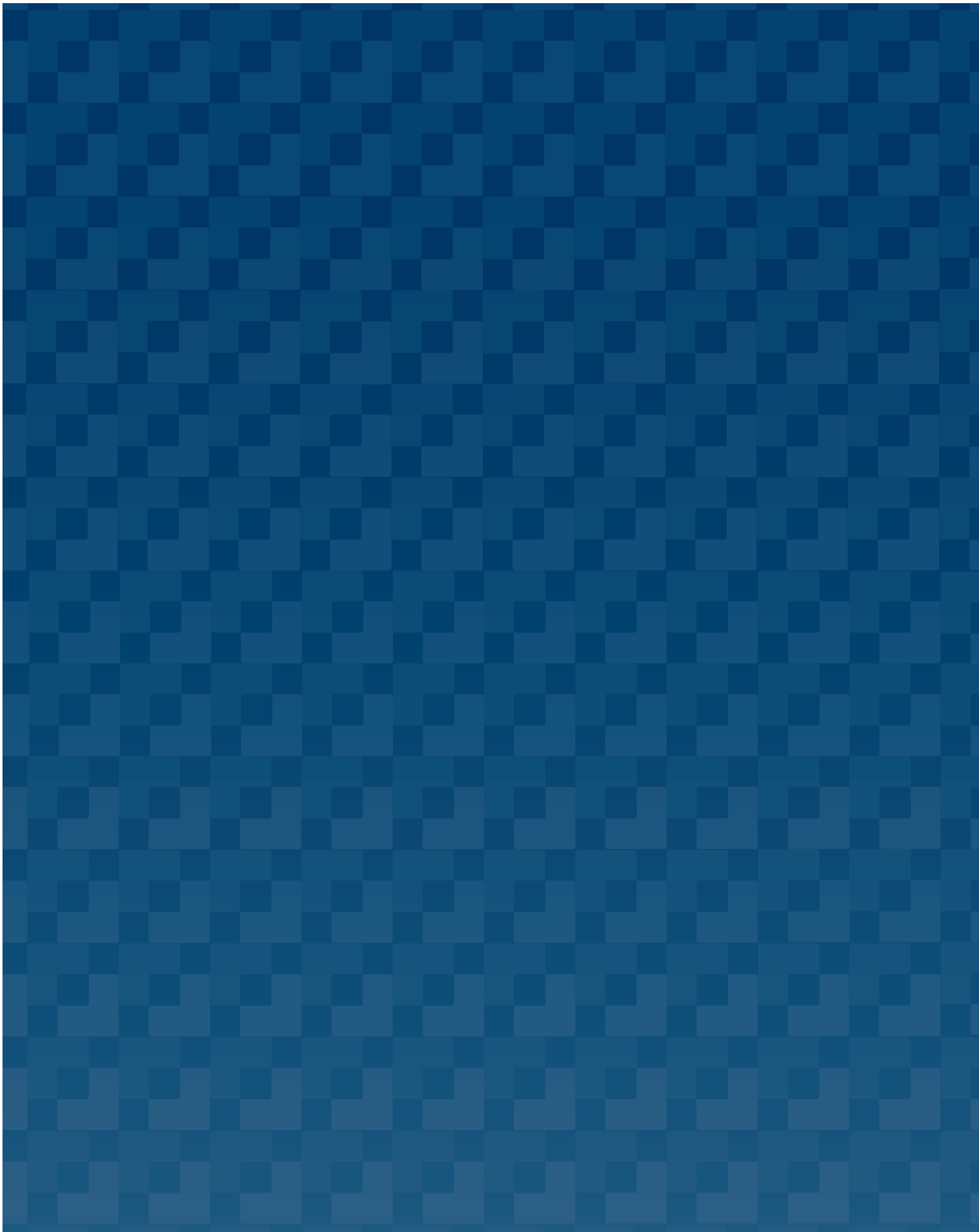
**Article #13** You have the right to expect [the Canada Revenue Agency] to publish [its] service standards and report annually.

**Article #14** You have the right to expect [the Canada Revenue Agency] to warn you about questionable tax schemes in a timely manner.

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

## The Office of the Taxpayers' Ombudsman

Our Office operates on a foundation of guiding principles. We demonstrate our independence by working at arms length from the CRA. We prove our impartiality by considering the positions and the perspectives of both the taxpayer and the CRA when examining all complaints or systemic issues. We promote fairness by upholding the service rights contained in the Taxpayer Bill of Rights. Last, but not least, we demonstrate our commitment to confidentiality by holding all of our communications with those seeking our assistance in the strictest confidence and not disclosing any confidential communications unless given permission to do so.



# Our Services

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

## Our Office provides four main services

### Information

We assist taxpayers by informing them of their rights and helping them access redress mechanisms within the CRA. Some taxpayers contact us because they simply do not know where to go for help with their problems. We refer them to the appropriate branch of government best suited to handle their matter.

### Facilitation

Our Office provides recourse of last resort. If a taxpayer has not already complained to the CRA, and they consent to us referring their complaint directly to the CRA's complaint-handling system, we do so. We contact the taxpayer thirty days later to see if their issue has been satisfactorily resolved by the CRA.

### Complaint resolution

Our Office generally intervenes when the taxpayer has exhausted all the service redress mechanisms within the CRA. If a taxpayer is unable to come to a satisfactory solution with the CRA in a timely fashion, we provide an independent and impartial review of their complaint. We obtain from the taxpayer a signed complaint form which allows our Office to obtain information relevant to their complaint from the CRA.

Our aim is to resolve complaints impartially, informally and quickly. If the complaint is not within our mandate, we will explain why and direct the taxpayer to the appropriate avenue for resolving the matter. The assistance we provide can range from facilitating taxpayer access to the CRA or another government department, to a full investigation by our Office.

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

### Systemic investigations

When the facts of a complaint raise systemic issues that could potentially impact many taxpayers, when there are multiple complaints about the same issue, or when stakeholders bring issues to our attention, the Ombudsman will initiate a full investigation into a systemic problem, culminating in a report.

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## Our Service Standards

In addition to helping to ensure that Canadian taxpayers and benefit recipients receive the quality service they are entitled to from the CRA, we are also committed to providing the best possible service to taxpayers who contact our Office for assistance. We fulfill this commitment to service by following three external service standards.

1. The Office of the Taxpayers' Ombudsman strives to ensure that phone calls in queue are answered by an agent within three minutes – 95% of the time.
2. The Office of the Taxpayers' Ombudsman will acknowledge receipt of taxpayer contact and/or complaints within 48 hours – 100% of the time.
3. The Office of the Taxpayers' Ombudsman will provide taxpayers with an update on their file every 15 business days – 100% of the time.

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Recent modifications made to our case management system will allow us to report on our performance in greater detail in the next fiscal year.



# Our Performance

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Our impartial reviews of unresolved complaints from taxpayers who feel they have not been treated fairly by the CRA have led to significant results for many taxpayers. These results include releases of seized bank accounts, the cessation of collection activities, payments of benefits or refunds, changes to CRA policies and procedures, and apologies from the CRA to taxpayers.

We assist taxpayers by:

- conducting impartial and independent reviews of service-related complaints about the CRA and achieving solutions to disputes between taxpayers and the CRA;
- facilitating taxpayer access to assistance within the CRA and helping them navigate the CRA bureaucracy; and
- identifying and investigating systemic and emerging service-related issues within the CRA that have a negative impact on taxpayers and making recommendations to correct systemic problems.

In this way, we also assist the CRA by helping it improve its service to, and treatment of, taxpayers.

## Case Summaries

### **Ombudsman's intervention leads to resolution of taxpayer problem**

A representative filed a complaint with our Office on behalf of his client. The representative explained that a settlement agreement had been reached in late 2010 regarding his client's Notices of Objection for the 1996 to 1999 taxation years. As a result of the settlement agreement, the CRA processed the adjustments for the 1996 to 1999 tax years and Notices of Reassessments were issued. Although the taxpayer and his representative thought the matter was settled, the CRA issued reassessments and outstanding balance summaries that did not appear to them to correspond with the terms of the settlement agreement. The representative and his client were not satisfied with the explanation from the CRA officer handling the file of how she calculated the tax owing for each relevant tax year and the total outstanding balance, including any applicable interest. Our intervention involved a request that a different CRA officer contact the taxpayer's representative and provide a complete breakdown of the settlement and a detailed calculation for each of the tax years in question. The CRA agreed to our request and confirmed with our Office that the representative was provided with a letter with schedules that contained detailed calculations for the 1996 to 1999 taxation years. The taxpayer's representative then contacted our Office to thank us for the assistance we provided in resolving this issue.

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“After years of effort, my client was finally provided with the answers he had sought for far too long. We thank the Office of the Taxpayers’ Ombudsman for its important assistance in the resolution of this problem.”

**a taxpayer’s representative**

### **Ombudsman’s intervention results in a manageable payment plan**

A taxpayer contacted our Office claiming that he would have to declare bankruptcy by month end if his issues with the CRA could not be resolved. He claimed that a garnishment of his wages was causing him extreme financial hardship. The taxpayer claimed that while he was living in the United States, he withdrew \$50,000 from an Individual Retirement Account (IRA). He did not receive the money until he had moved back to Canada, and as a result, he had taxes owing in excess of \$31,000 to both the CRA and the Internal Revenue Service (IRS). The taxpayer claimed that he did not understand how the debt occurred, and that the CRA would not provide him with a clear explanation. We sent an urgent Request for Action to the CRA requesting that it contact the taxpayer as soon as possible to discuss the situation and try to reach a mutually acceptable payment arrangement. We also requested that the CRA provide the taxpayer with a detailed breakdown of his tax account, and that a technical advisor contact the taxpayer to assist him in addressing the issue of double taxation by the IRS. Following our intervention, a CRA audit manager contacted the taxpayer by telephone to explain the details of the double taxation by the IRS. The CRA also met with the taxpayer to explain his situation and to discuss a new collections arrangement. The CRA removed his Requirement to Pay and renegotiated the garnishment rate so the taxpayer did not have to declare bankruptcy. The taxpayer was very pleased with the outcome of his case and thanked our Office for its assistance.

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### **Explanation provided and procedures reviewed**

A taxpayer contacted our Office to voice her dissatisfaction with the service she received from the CRA relating to the processing of her deceased father's estate. Her complaint encompassed many service issues including undue delays in the processing, misleading or inaccurate information, poor service, and lack of cooperation. She claimed that she was disconnected during calls with the CRA and was given inaccurate, misleading, and conflicting information depending on who she spoke with. She also claimed that the CRA agents refused to allow her to speak with their supervisors, misplaced her documents, and forced her to resubmit the documents. As a result, the process of obtaining a clearance certificate was delayed and the estate remained opened for an extended period of time. The taxpayer claimed that the treatment she received from the CRA compounded her grief over losing her father. When the taxpayer filed her service complaint, she indicated that she wanted the problems rectified and she wanted an acknowledgment and explanation for the service she had received. CRA-Service Complaints did rectify the issues but that taxpayer was not satisfied with the CRA's explanation. After the Ombudsman intervened and contacted the CRA, the taxpayer received a letter of regret detailing the errors made by the CRA and offering an explanation for how they had occurred. In addition, the taxpayer was informed that the CRA had reviewed their procedures with call centre agents to ensure that the proper procedures were now being followed.

### **Proof of dependant**

A father stated that he had attempted to claim his daughter as a dependant on his tax return but that the CRA denied his claim which resulted in an amount owing instead of providing him the tax refund he had expected. The CRA advised him that in order to claim his child as a dependant, he would need to provide a written statement signed by both himself and his ex-wife claiming that she would not declare the child as a dependant for that year and that the father could claim the child as a dependant. The father stated that due to the state of their relationship, he would not be able to obtain such a document from his ex-wife. The father stated that he had other proof that he could provide to the CRA showing that he was the primary caregiver for the child. Our Office sent a Request for Action to the CRA asking that they contact the father to discuss his situation and to determine if other documents would suffice. Once the taxpayer had the opportunity to provide his documentation to the CRA and explain his extenuating circumstances, the CRA agreed to reverse his assessment and allow him to claim his daughter as a dependant. The taxpayer was relieved that the CRA was now issuing his refund and reversing the tax debt.

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### **Proof of primary caregiver**

A woman who relied on the Canada Child Tax Benefit (CCTB) to make ends meet had her benefits suspended by the CRA. She claimed financial hardship – specifically that she did not have enough money to pay her rent and was facing eviction. She advised us that a third party falsely advised the CRA that she was not the primary caregiver of her daughter, which led to her having to prove that she was in fact the caregiver. She sent in the required proof but did not hear back from the CRA. Our Office sent an urgent Request for Action to the CRA asking that it look into her file and contact the taxpayer to provide an explanation of why her benefits were suspended. The CRA reviewed the documentation she had previously provided and reinstated her benefits. However, the CRA explained that they were unable to reinstate benefits for a four month period of time because it did not have any documentation for this time period. The taxpayer faxed the CRA a letter confirming that the child was indeed in her care and the CRA reinstated the benefits for that time period. The CRA recalculated her account in time for the next CCTB payment. She was also advised that the recalculation of her account would ensure that any monies that had been withheld would be issued to her.

### **Resolution of problem leads to recommendation**

A complaint was received from a taxpayer's representative stating that the CRA did not inform the taxpayer – an oil and gas business – of an existing tax debt for several years. It was also alleged that requests to the CRA for information about the debt were either unanswered or were not answered in a timely manner. Our analysis confirmed that the taxpayer was informed of the 1989 debt at the time a Notice of Reassessment was issued in 1990. Furthermore, the CRA provided Statements of Account to the taxpayer that reflected the balance outstanding, including arrears interest charges, until 1992. The last notification advising the taxpayer of this debt was issued in a Statement of Account dated September 17, 1992. At that time, the debt was segregated into a suspended inventory account as it was deemed uncollectible by the CRA and therefore, no further correspondence was issued to the taxpayer regarding this debt. In 2003, the taxpayer filed a T2 Corporation Income Tax Return and expected to receive a \$28,000 refund. That refund was withheld by the CRA for reasons not fully explained to the taxpayer. In 2009, the taxpayer filed a return expecting a refund of \$70,000 which was also withheld. Only once the taxpayer's representative filed a complaint with CRA-Service Complaints in December 2009 was he able to determine that the refunds had been applied to the 1989 debt which had been deemed uncollectible. The T1 Notices of Assessment (NOA) issued to individual filers contain a paragraph stating that any refunds will be held to offset an existing debt or that the refund amount shown on the notice does not include a previous outstanding amount. The T2 NOA issued to corporate filers did not contain this information. The Ombudsman recommended to the CRA that, in order to be fair to corporate filers, the T2 NOA should contain a similar paragraph. The CRA accepted and implemented this recommendation.

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“Thank you so much for your assistance in resolving my complaint with the Canada Revenue Agency. I am so happy and relieved to have this situation resolved, and I couldn’t have done it without your help.”

a taxpayer

## Systemic Investigations

An important part of the Taxpayers’ Ombudsman’s mandate is to identify and investigate systemic and emerging issues related to the CRA’s treatment of taxpayers. These investigations allow us to determine if a service or fairness issue has, or could have, a negative impact on large numbers of taxpayers or benefit recipients and should therefore be addressed as a systemic problem. Our goal is to provide feasible recommendations on how to correct the problem. The Ombudsman makes his recommendations to the Minister of National Revenue.

### Systemic Investigation Process

Once a systemic issue has been identified, the investigation proceeds through three phases. These are:

- the **research phase** – we gather the details, complaints, and public comments on the systemic issue
- the **analysis phase** – we review the research to identify the underlying issues and work to determine potential solutions
- the **reporting phase** – we present the findings and any recommendations to the Minister of National Revenue and publish a Special Report or an Observation Paper

A Special Report presents evidence and findings arising from the Office’s investigation into a specific systemic issue, and makes recommendations for corrective action to the Minister of National Revenue.

An Observation Paper provides a summary of the Taxpayers Ombudsman’s investigation and analysis of an issue that is important to taxpayers. It is produced for the purpose of providing balanced information on a particular topic.

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“The CRA welcomes the Ombudsman’s report as an opportunity to improve services to Canadians and has developed an action plan to address the recommendations identified in the report.”

**CRA media relations**

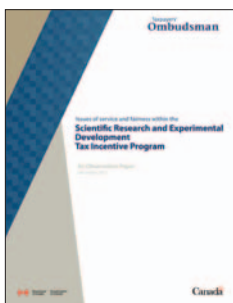
### **Special Report published – Knowing the Rules**



Our Office took notice of the numerous media reports on the difficulties experienced by individuals who found themselves in an over-contribution situation with the Tax-Free Savings Account (TFSA). We also received complaints from taxpayers who had received letters from the CRA advising them that they were being penalized for over-contributing to a TFSA. Taxpayers complained to us that TFSA rules regarding withdrawals and over-contributions were confusing. We heard from individuals who claimed that the information they had obtained about the rules governing the TFSA was not clear enough, thus generating mistakes in their use of a TFSA. The Ombudsman recommended that the CRA take steps to make Canadians more aware of the information it provides about the TFSA on its Web site, in print, and elsewhere, and that the CRA continue to update the information available and be proactive in informing Canadians about how to find the tax rules governing the TFSA. In addition, the Ombudsman recommended that the CRA continue to work with the financial services sector to ensure that the CRA’s information products about the TFSA are widely available. These recommendations were accepted by the Minister of National Revenue and are being implemented by the CRA.

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## **Observation Paper published – Issues of Service and Fairness within the Scientific Research and Experimental Development Tax Incentive Program**



Upon hearing of dissatisfaction with the Scientific Research and Experimental Development (SR&ED) Tax Incentive Program expressed by some claimants and their representatives, the Taxpayers' Ombudsman initiated an investigation to determine whether the CRA's

administration of the program is consistent with the service rights within the Taxpayer Bill of Rights. Our investigation focused on service issues such as the sufficiency and timeliness of the CRA's communication to claimants as well as questions of administrative fairness.

Many claimants and their representatives do not know or understand some of the CRA's policies for administering the SR&ED program. Our discussions with SR&ED stakeholders revealed a lack of understanding of the CRA's Appeals Process, the Administrative Second Review, and the policy on preliminary eligibility discussions. There is also a perception among some claimants that the SR&ED program is not administered consistently across the country, as some apparently similar claims have received different eligibility determinations in different parts of the country.

The observations the Ombudsman made speak to the need for the CRA to continue, and even enhance, its proactive communication with SR&ED claimants and their representatives.

## **Reports at the reporting phase but not yet publicly released**

### *Earning Credits*

Investigation of the service and fairness of the CRA's assessment of the tuition tax credits for expenses incurred attending educational institutions outside Canada.

### *Acting on ATIP*

Investigation into the CRA's service with respect to Access to Information and Privacy (ATIP) requests.

These reports will be announced, published, and available on our Web site. Sign up for our RSS feed or join our electronic mailing list to get the latest news at [www.oto-boc.gc.ca](http://www.oto-boc.gc.ca).



**Tax Practitioner Seminar, Kitchener, ON**

### **Informing Canadians**

Reaching out to Canadians to raise awareness of their rights as taxpayers is an important part of the Ombudsman's role. During the past year, the Office executed a targeted and sustained communications and outreach strategy to support this objective.

### **Outreach**

The Ombudsman's ongoing engagement with business associations and tax professionals continued to yield results. This year, the Ombudsman met with local Chambers of Commerce in Sudbury, Ontario and Moncton, New Brunswick. The Ombudsman also addressed the annual meeting of the EFILE Association of Canada, a group representing tax professionals across Canada, as well as a tax practitioners' seminar in Kitchener, Ontario. These events provided opportunities for dialogue on shared concerns and helped our Office identify emerging issues.



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While visiting these communities, the Ombudsman took advantage of the opportunity to visit the CRA's local tax services offices. By meeting with CRA management and staff we were able to learn how our recommendations are having an impact on how the CRA serves and treats taxpayers. We also heard from CRA employees about the issues and challenges they face in providing service to Canadians. In impartially assessing the CRA's service delivery, it is as important to hear the perspective of CRA employees as it is to hear from taxpayers. The Ombudsman shared his personal experiences and insights from these events by posting regular updates to his outreach blog on our Web site.

To the extent possible, we seek to partner with other Government of Canada agencies to leverage information about our Office and the services we offer taxpayers. This year our Office participated in the Canada Pavilion program led by Public Works and Government Services Canada. The Canada Pavilion event in Calgary, Alberta, provided an opportunity for the Ombudsman and his staff to speak directly to hundreds of taxpayers, to hear their concerns, and to directly assist them with their service-related issues. We also participated in the Rural Exhibits Program, an initiative of Agriculture and Agri-Food Canada. Through this program, our publications were made available at events in Ontario, Saskatchewan, and Nunavut.

For the second year in a row we collaborated with the CRA to provide information to taxpayers through the Community Volunteer Income Tax Program (CVITP). The CVITP is a community-based outreach program in which trained volunteers assist eligible individuals with the preparation of their income tax and benefit returns through a series of local tax preparation clinics. Through this program, we distributed more than 21,000 information guides and posters to volunteers and tax clinic organizers across Canada.

When Canadians have concerns or complaints about government services, they will often turn to their local Member of Parliament (MP). To help MPs assist their constituents who may have concerns about the CRA, we offered information about our Office and the services we provide for inclusion in MP householders. The Ombudsman made a presentation at an information session for MPs and their staff at a seminar in Ottawa, Ontario, hosted by the Library of Parliament.



Interview with Argent Maintenant program, Ottawa, ON

## Media

Over the past year, the Ombudsman's outreach initiatives and speaking engagements were widely reported by local and regional media in those communities he visited, which further raised public awareness of the services we offer to taxpayers.

Of particular note was the media response to the release of the Ombudsman's Special Report on the Tax-Free Savings Account. The Ombudsman was interviewed by many major media outlets, including television, print and radio. Initial coverage was extensive and residual coverage, through re-broadcast and secondary print articles, was projected to reach tens of thousands of Canadians and many others around the world.

## Web

More Canadians are visiting our Web site than ever before. In the 2011-2012 fiscal year, the number of individual site visits climbed by more than 40 per cent over the previous year to 136,172. The number of electronic publications downloaded from our site saw a similar increase to 11,235 – a rise of more than 39 per cent. This greater emphasis on distributing more of our publications electronically supports our Office's commitment to environmental sustainability.

To improve the accessibility and functionality of our Web site, we initiated a significant redesign of our home page. These changes make it easier for Canadians to quickly obtain information about their rights as taxpayers and the services our Office provides.

Through sustaining dialogue with key stakeholders, partnering with other Government of Canada programs, and identifying emerging issues, we continue to advance awareness of taxpayers' rights.

### Outreach and Speaking Engagements

Date	Event	Location
June 1, 2011	Greater Sudbury Chamber of Commerce	Sudbury, ON
July 12-17, 2011	Canada Pavilion	Calgary, AB
September 15, 2011	EFILE Association of Canada - Annual General Meeting	Moncton, NB
October 25, 2011	Greater Moncton Chamber of Commerce	Moncton, NB
November 22, 2011	Kitchener/Waterloo Tax Practitioners' Seminar	Kitchener, ON
February 23, 2012	Ontario Bar Association - Meeting of the Tax Executive Committee	Toronto, ON
March 1, 2012	Chungsen Leung, MP • Information Fair - Family Support Services	Willowdale, ON
March 16, 2012	Library of Parliament (Colloques Parlementaires) Speakers Series	Ottawa, ON
March 26, 2012	Meeting with Hoang Mai, MP, NDP (Opposition Critic National Revenue)	Ottawa, ON

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## **New Publications**

Two new publications, the *Perspectives* newsletter and the *Digest of Taxpayer Service Rights* were launched this year. These publications demonstrate on a regular basis how we uphold the Taxpayer Bill of Rights and ensure that taxpayers receive the professional service and fair treatment they are entitled to from the CRA.

### *Perspectives* Newsletter

To keep Canadians informed of the activities of our Office, this year we launched *Perspectives*, our quarterly newsletter. The newsletter, available online, contains useful information for taxpayers, updates on recent initiatives, and summaries of actual cases reviewed by our Office which demonstrate how we are making a difference for Canadians.

### *Digest of Taxpayer Service Rights*

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

# Behind the Scenes

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## Improving Business Operations

Our review of our internal structure, our work processes, how we engage with stakeholders, and our future direction was completed. We assessed how efficiently we do our work and determined which areas could be improved on. An investigative processes review was conducted in Fall/Winter 2011 to allow us to streamline and improve our own policies and procedures. New tools to be implemented were identified and an action plan was developed in March 2012. The implementation will occur during the 2012-2013 fiscal year.

We continued to assess our case management system to ensure its efficiency and effectiveness. We initiated a statistical analysis and trend identification project to analyze a variety of data and to identify enhancements that would benefit our business operations. By the end of this project, a set of tools will be developed for tracking important information which will allow the Office to continue monitoring value-added performance measures and create an ongoing year-to-year analysis of trends. The data will also assist the Office in reporting on how it is meeting its performance objectives.

We also regularly update and improve our own procedures and manuals in order to continue to meet our own service standards and our commitments to taxpayers.

The success of the Office depends upon the experience, skills, and knowledge of the employees who work here. Employee development continues as we invest time and resources into ensuring that employees have the necessary competencies to support organizational success.

## Legislative Obligations

### Official Languages

The Office of the Taxpayers' Ombudsman is subject to the legislative requirements of the *Official Languages Act*. The purpose of this Act is to ensure respect for English and French as the official languages of Canada and ensure equality of status and equal rights and privileges as to their use in all federal institutions, in communicating with or providing services to the public, and in carrying out the work of federal institutions.

The Office is committed to ensuring that taxpayers receive service in the official language of their choice. Currently, all employees meet their position's language requirements. We continue to promote the use of both official languages within our Office.

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## Access to Information

The Office of the Taxpayers' Ombudsman is subject to the legislative requirements of the *Access to Information Act* and the *Privacy Act*. The *Access to Information Act* is based on three main principles:

- Government information should be available to the public.
- Exceptions to the right of access should be limited and specific.
- Decisions about disclosures should be reviewed independently of government.

The *Privacy Act* protects the privacy of individuals by outlining strong requirements for collecting, keeping, using, disclosing, and disposing of personal information held by government institutions.

During the fiscal period, we received six formal requests and two informal requests for information. We responded to these requests within the established deadlines.

## Occupational Health and Safety (OHS)

The Office of the Taxpayers' Ombudsman is committed to providing a healthy and safe working environment for its employees, as stipulated in the *Canada Labour Code, Part II*. All new employees are made aware of the importance and responsibilities of both staff and management for health and safety in the workplace. Our Office has four employees that are first aid attendants.

There were no reportable incidents during the year.

During the fiscal year, the Office ensured that:

- each month the OHS committee inspected all or part of the work place, so that the entire work place is inspected at least once each year;
- first aid attendants received defibrillator training;
- information about the Employee Assistance Program was provided to employees;
- work station assessments were conducted as required; and
- first aid supplies were made available.

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## Sustainable Development

Sustainable development has been defined in many ways, but the most frequently quoted definition is from *Our Common Future*, also known as the Brundtland Report.<sup>2</sup>

“Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

We, therefore, encourage employees to adhere to the principles of sustainable development. We aim to reduce the environmental impact of our operations. Initiatives that have been taken in this regard include:

- duplex-default printing
- recycling toner cartridges
- recycling batteries
- recycling of boxes
- recycling of waste

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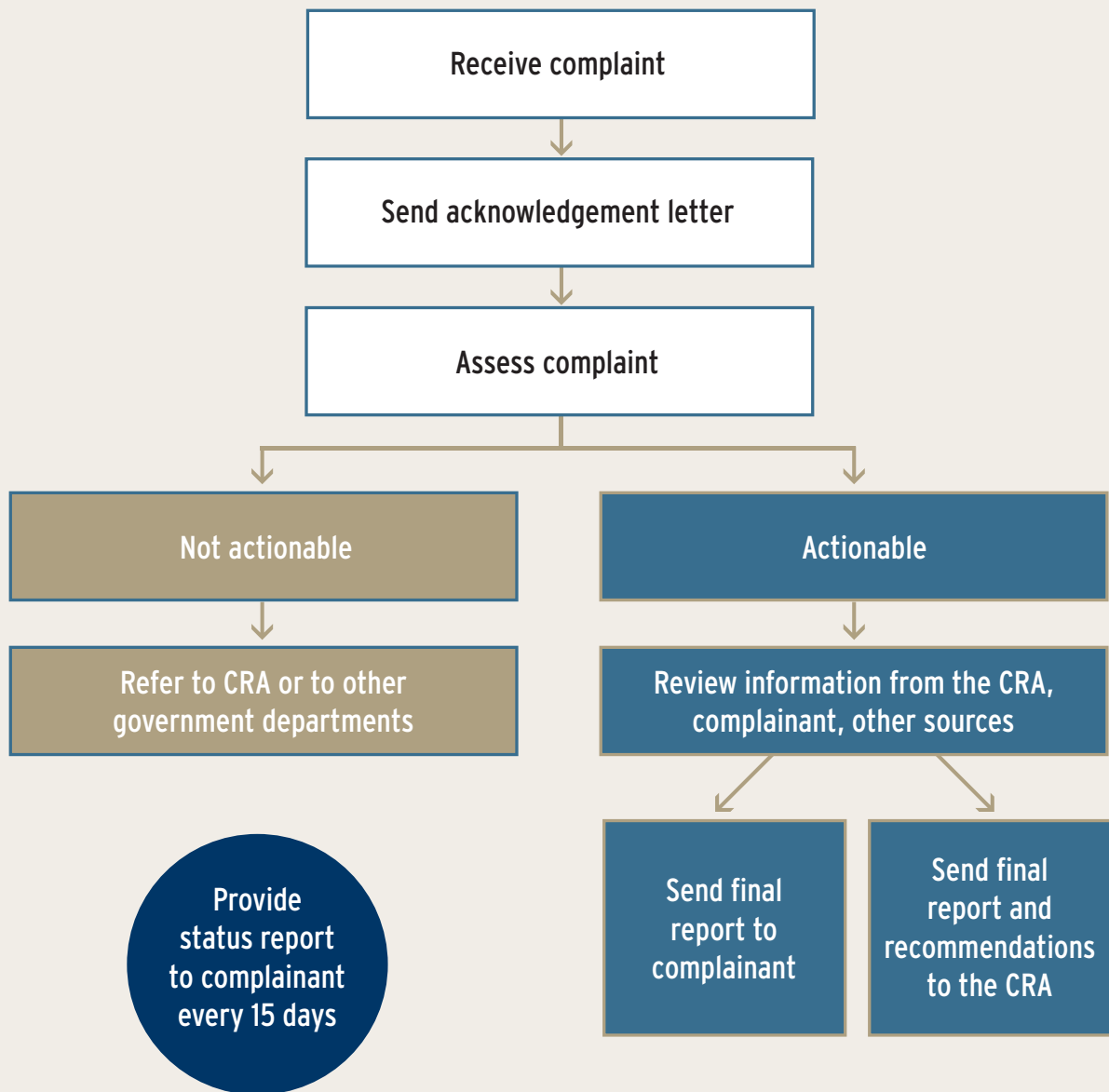
“Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

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2. World Commission on Environment and Development (WCED), *Our Common Future*, Oxford: Oxford University Press, 1987 p. 43

# Appendices

## Appendix A - Complaint Resolution Process Map





## Appendix B - Summary of Files

Files carried over from 2010-2011 (previous fiscal)	107	
Files opened in 2011-2012	835	
Files reopened	35	
		977
<b>Files closed in 2011-2012</b>		
Non-mandate (closed after preliminary assessment)	250	
Early resolution	427	
Investigations completed	163	
		840
Files carried over to 2012-2013		137

## Appendix C - Financial Resources

Expenditures	2010-2011 (\$000)	2011-2012 (\$000)
Salaries	1,759	1,834
Training and Education	19	18
Professional Services	14	47
Information Technology Services	31	35
Travel	44	41
Office Equipment	24	19
Printing and Publishing	38	20
Telecommunications	31	25
Office Expenses	26	22
<b>Total Annual Operating Expenses</b>	<b>1,986</b>	<b>2,061</b>

## How to Contact Us

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You can contact the Office of the Taxpayers' Ombudsman by:

- Calling us toll-free at **1-866-586-3839** within Canada and the United States. If you are outside of Canada and the United States, please call collect at 613-946-2310. Our Office hours are 8:15 a.m. to 4:30 p.m. EST, Monday to Friday (except holidays).
- Visiting our Web site at **[www.oto-boc.gc.ca](http://www.oto-boc.gc.ca)** and completing our complaint form describing your situation, and mailing or faxing it with any supporting documents to:

**Office of the Taxpayers' Ombudsman**  
**50 O'Connor Street, Suite 724**  
**Ottawa, ON K1P 6L2**  
**Canada**

Fax: **613-941-6319**

Toll-free fax: **1-866-586-3855**

- Making an appointment for an in-person meeting by calling us during our regular office hours.