

Taxpayers'  
**Ombudsman**

Annual Report 2013-2014



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, 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 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. \*
16. You have the right to lodge a service complaint and request a formal review without fear of reprisal.

*\* Service rights upheld by the Taxpayers' Ombudsman*

The Honourable Kerry-Lynne D. Findlay, P.C., Q.C., M.P.  
Minister of National Revenue  
555 MacKenzie Avenue, 7th floor  
Ottawa, ON K1A 0L5

Dear Minister:

I am pleased to submit, for tabling in each House of Parliament, the sixth Annual Report of the Taxpayers' Ombudsman. This report provides an overview of the activities and operations of my Office, from April 1, 2013 to March 31, 2014. It highlights our achievements as we strive to ensure that taxpayers receive the professional service and fair treatment to which they are entitled from the Canada Revenue Agency.

Yours truly,

A handwritten signature in black ink, appearing to read "J. Paul Dubé", written in a cursive style.

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

Mr. Richard Thorpe, CPA, CMA, FCMA  
Chair, Canada Revenue Agency Board of Management  
555 MacKenzie Avenue, 7th floor  
Ottawa, ON K1A 0L5

Dear Mister Chair:

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

This report provides an overview of our activities and operations from April 1, 2013 to March 31, 2014.

I trust that the information contained in this document will assist you in your responsibility of overseeing the organization and administration of the Canada Revenue Agency.

Yours truly,

A handwritten signature in black ink, appearing to read "J. Paul Dubé", is written over a light blue horizontal line.

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

## Message from the Ombudsman



The past year has been a productive one for my office. In addition to the very successful release of *Donor Beware*, the Special Report on questionable tax schemes, several other Special Reports are in the final stages of preparation for publication in the near future. We had several other significant accomplishments in this reporting period as well.

Most significant among them was my recommendation that led to the amendment of the *Taxpayer Bill of Rights* (TBR) and the addition of Article 16. My recommendation to the Minister of National Revenue was that the fear of reprisal expressed by many taxpayers (something I spoke about in last year's Annual Report)

needed to be addressed. Although we have not seen evidence that Canadians have been subject to reprisal by the Canada Revenue Agency (CRA), in my work across the country I heard that taxpayers would sometimes hesitate to lodge a complaint for fear of being treated differently afterward. To address this fear and encourage Canadians to speak up if they have a disagreement with the CRA, I recommended that a new right be added to ensure Canadians are confident they will be treated fairly.

I was extremely gratified that the Minister and the CRA responded so favourably to the recommendation and took action to address the issue. In addition to adding Article 16 to the TBR – which ensures taxpayers that they have the right to lodge a service complaint and request a formal review without fear of reprisal – the CRA has put in place a procedure by which any allegation of reprisal is referred directly to an investigation office located at CRA Headquarters. This ensures that the investigation is conducted independently of the office associated with the complaint.

Another accomplishment this year was to make significant progress in raising awareness and understanding within the CRA of my role and the processes of my office. A national outreach tour permitted me to meet front-line CRA staff in most tax services offices across the country and explain how my office promotes fairness and service by upholding the TBR. I am always impressed with the dedication and professionalism of the CRA staff I meet, who express a commitment to providing the best possible service to Canadians. What I often hear from CRA staff is that they wish they could do more – a frustration shared by many taxpayers.

The complaints we receive are most often about CRA policies or procedures that sometimes lead to a lack of fairness or poor service, and in my meetings with CRA

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staff I have learned that they are often as unsatisfied with the outcomes as taxpayers are. Identifying those policies and procedures through consultations and making recommendations for corrective action is a key aspect of how I fulfill my mandate. Input from CRA personnel, and taxpayers alike, is crucial to our ability to be an agent of positive change.

We have received more complaints from large corporations in the past year and we have had success in helping resolve service issues between large corporate taxpayers and the CRA. The Office of the Taxpayers' Ombudsman is being increasingly recognized as a valuable resource by all stakeholders, including the business community.

It must be remembered that the TBR applies to all taxpayers, from students, to families, to multinational corporations, and everyone in between, who receives service from the CRA. One thing stakeholders are increasingly coming to realize, including large corporations, is that when my office gets involved in a complaint, the matter gets a very high level of scrutiny. Our intervention assures that the problem or issue gets the appropriate level of attention within the CRA. As a result, we are able to get results for taxpayers – including large corporate taxpayers – which they or their representatives at times are unable to obtain on their own.

The efforts to raise awareness about taxpayer rights and the role of the Taxpayers' Ombudsman are ongoing. My office now has a social media presence on Twitter and the first webinar was a great success. There are plans to offer more webinars as a cost-effective means of reaching stakeholders across Canada.

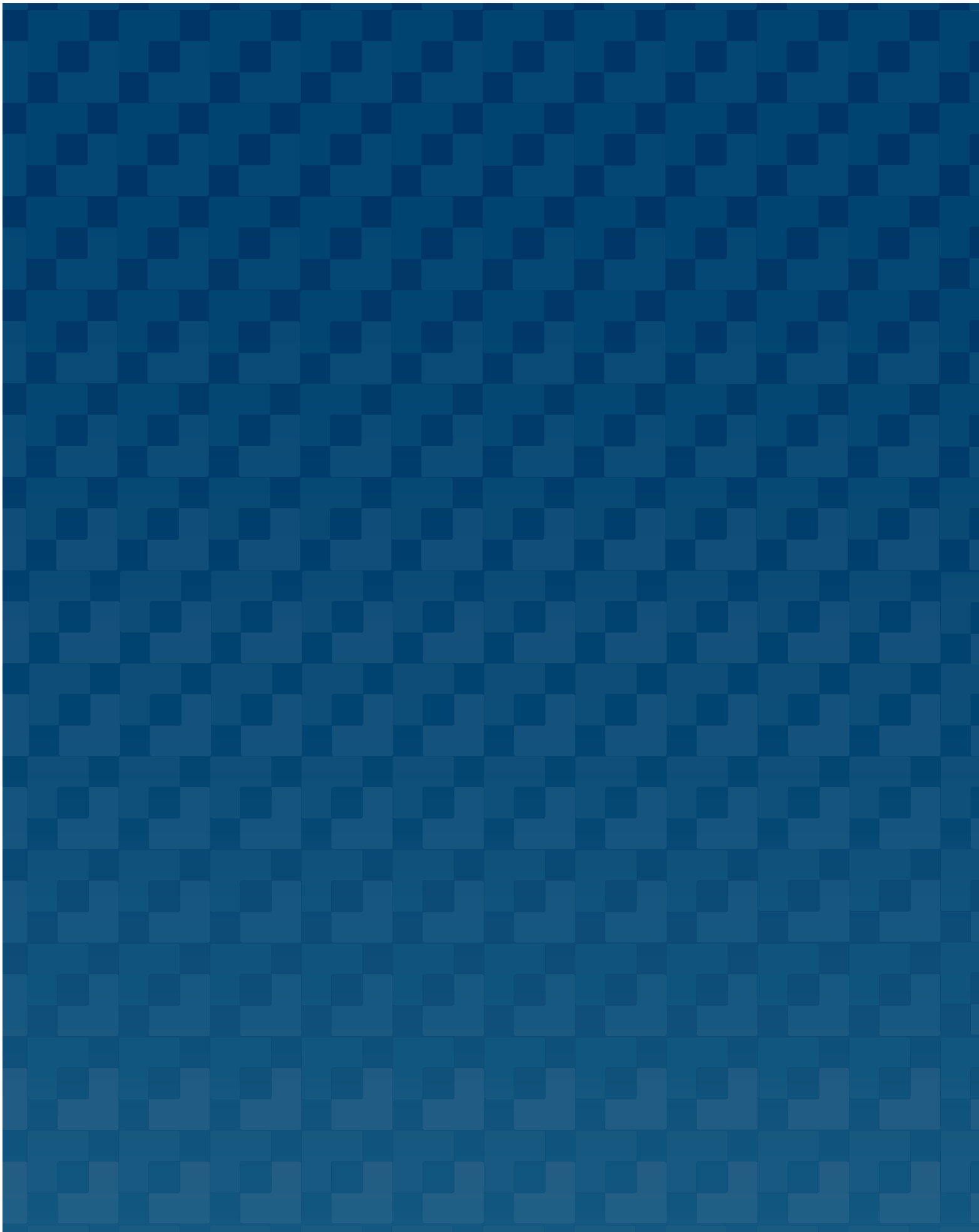
My office continues to seek the most effective and efficient ways to fulfill the mandate I have been given while being fiscally responsible during a time of cost

containment. We still have work to do in building the type of organization that will best serve taxpayers and deliver on the Ombudsman's mandate. In the meantime, we have not spent money we did not have to and as we have done every year since becoming operational, we will once again operate within our budget projections.

My involvement in the ombuds community, both nationally and internationally, continues to be very enriching. As a member of the Board of Directors of the Forum of Canadian Ombudsman, I am very proud of the development of an Ombuds Essentials Certificate Program in conjunction with Osgoode Hall Law School. The creation of this new program, offered for the first time in September in Toronto, represents the arrival of a made-in-Canada program specifically tailored to ombuds and their personnel.

My interactions with international colleagues are very beneficial as well. I continue to draw on close ties I have with the U.S. Taxpayer Advocate and the Australian Inspector-General of Taxation, whose insight is invaluable, and with whom consultations lead to a sharing of many best practices. This year I also participated in another panel of taxpayer ombuds and advocates at an International Tax Law Conference, where I was able to expand my consultation base, meet my Mexican counterpart, and update contact with the U.S. Taxpayer Advocate's office.

Looking forward, the promotion of fairness will remain the focus for my office. We have seen an increase in complaint volumes, and when combined with the statistics on our website traffic and of our media coverage, it suggests that Canadians are steadily becoming more aware of our presence and relevance to them.





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# ABOUT US

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The Taxpayers' Ombudsman is an independent officer appointed by the federal government to review service-related complaints about the CRA and uphold the service rights in the *Taxpayer Bill of Rights*. The position was created to support the priorities of stronger democratic institutions, increased transparency, and the fair treatment of all Canadians.

## OUR VISION

In every interaction, the CRA treats taxpayers fairly and serves them professionally.

## OUR MISSION

The Taxpayers' Ombudsman is committed to ensuring transparency, accountability, and the fair treatment of taxpayers by the CRA.

## OUR VALUES

We believe in interactions based on independence, impartiality, fairness, and confidentiality that encourage people to adapt and cooperate while working respectfully towards positive outcomes.

## WHAT WE DO

### *Our Services*

Canadians contact our Office for many reasons and with many different needs. We provide four main services: information, facilitation, complaint resolution, and systemic investigations.

**Information** – We assist taxpayers by informing them of their rights and helping them access the appropriate 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 area of government best suited to handle their matter.

**Facilitation** – We provide recourse of last resort. If taxpayers have not already complained to the CRA, and they consent to us referring their complaint directly to the CRA-Service Complaints, we do so. We contact taxpayers 30 days later to see if their issue has been satisfactorily resolved by the CRA.

**Complaint resolution** – We generally intervene when taxpayers, who feel unfairly treated by the CRA, have exhausted all the service redress mechanisms within the CRA. If taxpayers are unable to come to a satisfactory solution with the CRA in a timely fashion, we provide an independent and impartial review of their service complaint. We obtain signed complaint forms from taxpayers, which allow our Office to obtain information relevant to their complaint from the CRA.

Our aim is to resolve service complaints impartially, informally, and quickly. If the complaint is not actionable by us, 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.

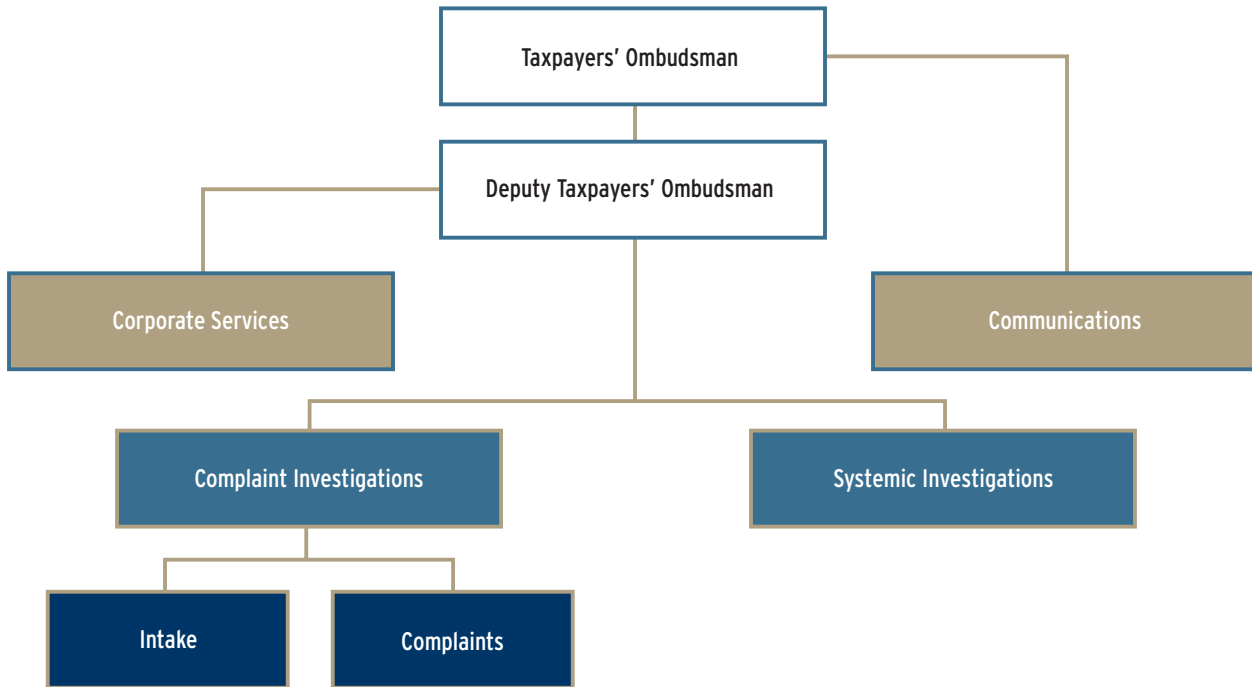
We cannot override the decisions of the CRA, nor issue directions to its staff. Instead, we resolve service and fairness related complaints through consultation and negotiation, and if necessary, by making formal recommendations to the Minister of National Revenue.

**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 can initiate a full investigation. These systemic investigations culminate with either the Ombudsman's recommendations to the Minister of National Revenue, or with a confirmation that the Ombudsman is satisfied that the CRA's actions have addressed the issues.

## HOW WE DO IT

The activities of the Office are carried out by four units working in unison: Complaint Investigations, Systemic Investigations, Communications, and Corporate Services.

### Organizational Structure of the Office of the Taxpayers' Ombudsman



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## Complaint Investigations Unit

The Complaint Investigations Unit is divided into two teams: Intake and Complaint Investigations.

The Intake Team is the first point of contact for taxpayers. These officers deal with questions, enquiries, and complaints received by taxpayers and determine whether it falls within the Ombudsman's mandate. For those that do fall within the mandate, the intake officers are able to open a complainant file and initiate the investigation process.

For complaints that are not actionable, the officers are able to answer questions and often act as a resource for taxpayers by listening to their concerns and providing options and direction. The officers are able to assist taxpayers to contact the right government department or agency if needed.

Once the intake officers have determined that a complaint is actionable, the file is opened and transferred to the Complaint Investigations Team. The investigators are responsible for examining the complaints in greater detail. They obtain information, evaluate the complaints, recommend solutions, and make referrals. If a particular complaint topic appears to recur, the investigators refer them to the Systemic Investigations Unit.

## Systemic Investigations Unit

The Systemic Investigations Unit deals with emerging trends and systemic issues related to the rights of taxpayers to receive fair and professional treatment from the CRA. Investigators are responsible for researching, reviewing and finding solutions to systemic issues that have the potential to negatively affect a large segment of taxpayers and/or benefit recipients.

## Communications Unit

The Communications Unit is responsible for developing and implementing a strategic communication plan aimed at raising awareness of taxpayer rights and the role of the Ombudsman, as well as communicating to stakeholders the activities and achievements of the Office. Its primary functions include the provision of strategic advice on public affairs and stakeholder engagement as well as planning and executing outreach initiatives, speaking engagements, information sessions and media relations. Included within this broad scope are the responsibilities for communication products such as newsletters, articles, webinars, Twitter feeds, and management of the website.

## Corporate Services Unit

The Corporate Services Unit provides advice and integrated organizational services. These employees are responsible for corporate planning and reporting, financial management, human resource management, information management, information technology, and procurement, all in compliance with the related legislative requirements.

# OPERATIONS OVERVIEW

## Complaint Investigations - Year in Review

Many taxpayers come to our Office seeking a fair and impartial review of a complaint related to the treatment or service they have received from the CRA. We strive to respond to all enquiries within two business days.

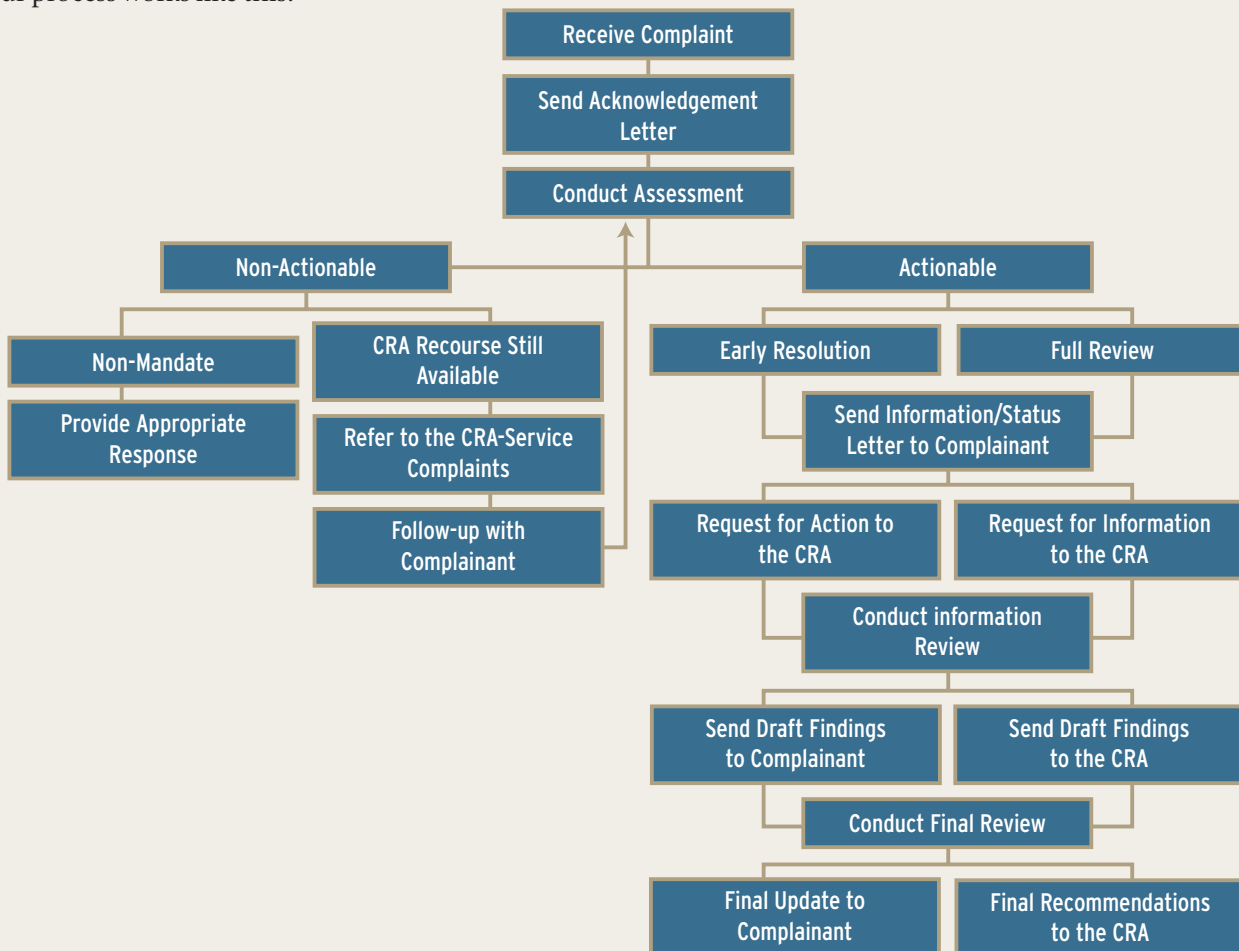
## Procedures

The objective is to identify and help correct service and fairness issues as quickly as possible.

The Taxpayers' Ombudsman contributes to improvements in the CRA's accountability and service by providing independent advice in three ways:

- Systemic recommendations to the Minister of National Revenue;
- Administrative recommendations to the CRA; and
- Informal feedback through day-to-day interactions with the CRA.

Our process works like this:



We receive complaints by mail, by fax, in person, and through an online complaint form. This online complaint form has proven to be a great success. Since its debut in March 2013, the numbers relating to the usage of the online form have grown to the point where it is now accounting for seven per cent of all our incoming complaints. We fully expect online requests to increase as more Canadians become aware of this option.

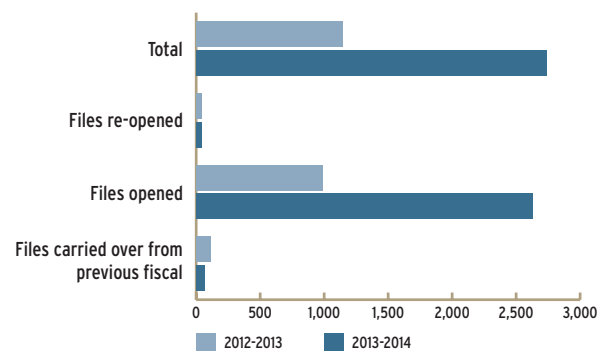
We assess the complaints to determine if they are actionable by our Office. Some complaints do not relate to matters of fairness or service and therefore are not actionable. We refer these complainants to the government area that is best suited to help them.

Sometimes complaints need immediate attention, such as in cases of financial hardship. In these instances, we send an urgent request for action to the CRA, which the CRA usually addresses within 48 hours.

When we receive a complaint that falls within our mandate, we assign it to our Complaint Investigations Unit for review. Once we have written consent from complainants to access their file at the CRA, we conduct a thorough investigation. We then gather input from complainants and the CRA to have the widest and most accurate understanding of the complaint possible. Our investigators will contact complainants to inform them of our processes and to provide them with regular updates, a minimum of every 15 business days. Once an investigation is complete, we communicate findings to the complainant and the CRA. If the complaint is found to have merit, we can propose constructive action to the CRA through administrative recommendations.

The following chart represents the number of files we opened in 2013-2014 and comparing it to 2012-2013. We open a file for each enquiry that requires assistance.

### Files Opened



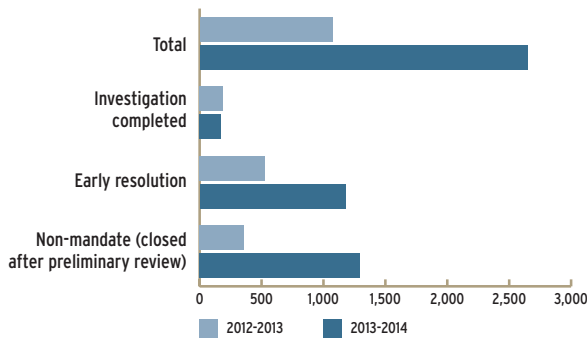
Files carried over from previous fiscal	Files opened	Files re-opened*	Total
107**	990	41	1,138**
64**	2,631	40	2,735

\* Files are sometimes re-opened due to outstanding service issues.

\*\* Adjustments made to our data-tracking system has caused minimal changes to our historical data over the last two fiscal years.

The following chart represents the number of files we closed in 2013-2014 and comparing it to 2012-2013.

### Files Closed



Non-mandate (closed after preliminary review)	Early resolution	Investigation completed	Total
359*	524*	191	1,074*
1,296	1,180	175	2,651

\* Adjustments made to our data-tracking system has caused minimal changes to our historical data over the last two fiscal years.

We track our workload not only by the number of files, but also by the number of issues raised by complainants. Tracking the issues enhances our understanding of the problems faced by taxpayers and enables us to identify trends and provide constructive feedback to the CRA.

### Issues per File

File Complexity	Investigations Completed in 2013-2014
Number of files with 1-3 issues	163
Number of files with 4-5 issues	9
Number of files with 6+ issues	3
<b>Average number of issues per file</b>	<b>1.7</b>

We also identify which service rights under the *Taxpayer Bill of Rights* are relevant to a complaint. The service rights relevant to complaints in this reporting period are quantified in the following chart.

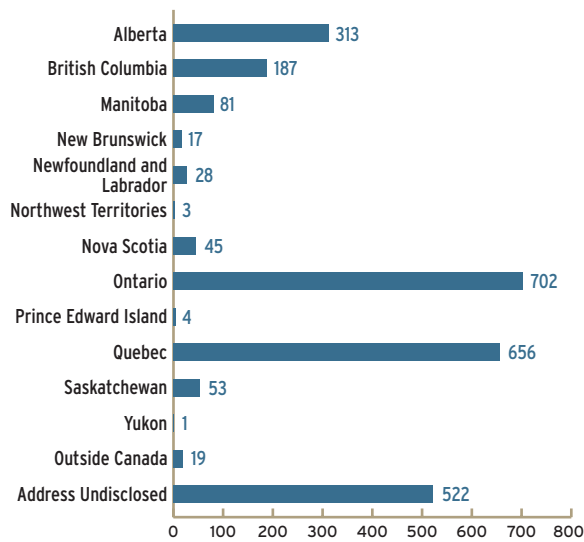
### Issues by Service Right

Taxpayer Right	Investigations				Total
	With Merit	Without Merit	Unsubstantiated	Discontinued	
To be treated professionally and courteously	10	5	8	0	23
To be treated fairly	48	53	47	5	153
To complete, accurate and clear information	18	37	12	3	70
To timely information	10	10	6	1	27
To lodge a service complaint and to be provided with an explanation of the findings	0	1	0	0	1
To have the costs of compliance taken into account when administering tax legislation	0	2	3	0	5
To expect CRA to be accountable	6	5	5	1	17
To be represented by a person of your choice	0	2	1	0	3
<b>Total</b>	<b>92</b>	<b>115</b>	<b>82</b>	<b>10</b>	<b>299</b>



Our Office receives enquiries, complaints, and requests for assistance from taxpayers across Canada. The following chart demonstrates the number of files we received and from which province or territory they originated.

### Files Opened by Location



### Case Summaries

The following are case summaries that illustrate the scope of our work on complaint files; from consultations, referrals to the CRA, and full investigations.

#### Not Bankrupt

Mr. X was trying to set up a payment plan for an outstanding tax debt, but was surprised to discover that the CRA had mistakenly assumed that he had declared bankruptcy. Mr. X had not declared bankruptcy and asked the CRA why its records stated he was bankrupt, but the CRA did not provide an explanation. He eventually contacted us for help. After we investigated the situation, we suggested that both an explanation and an apology be provided to Mr. X. These suggestions were accepted and acted upon by the CRA.

#### Complete, Accurate, Clear, and Timely Information

Mr. and Mrs. Q took ill and required the assistance of a professional with preparing their tax returns. Shortly afterwards, they emigrated from Canada. The couple died a few years later and the executor of their estates, Mr. T, discovered there were taxes as well as penalties and interest to be paid in Canada. Mr. T contacted us because he was confused by the number of letters he received from the CRA. He said that the CRA had given him written assurances that taxpayer relief would be granted and the penalties and interest would be waived, but that he was later informed that taxpayer relief had been denied. We suggested to the CRA that it provide a written explanation of relief and interest issues and up-to-date statements of account on both estates. Our two suggestions were acted upon by the CRA.

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### **Financial Hardship**

We received a complaint from Mr. J regarding a request for assistance due to financial hardship. He was on a limited income and claimed that collection efforts by the CRA were preventing him from being able to purchase medicine that was not covered by his provincial health insurance plan. Mr. J admitted to having a conversation with the CRA saying he could not pay the amount owed, but did not respond to any of the subsequent calls and letters from the CRA. Our investigation revealed that the CRA acted only after having exhausted every possible method of contacting Mr. J to reach a payment plan.

Once Mr. J's dire financial circumstances were raised by our Office, CRA ceased collection. The CRA also realized that Mr. J's claim to financial hardship should have been taken more seriously from the very beginning. We also suggested to Mr. J that this situation was entirely preventable if only he had been more communicative with the CRA from the very beginning.

### **Communication Breakdown**

Mrs. S is not fluent in English. She received a letter from the CRA informing her that she was going to be audited and requesting more information. To assist her in understanding the letter and to help comply with the CRA's request, she sought out a community centre translator. As a result of the well-meaning translator not fully understanding the CRA's request, Mr. S could not provide all the information and documentation it was looking for. The CRA took measures to recover the benefits it had already issued, which imposed great financial hardship on Mrs. S and her family. Our Office sent an urgent request for action which the CRA immediately acted upon. All Mrs. S's benefits were restored and the amounts owing reversed.

### **Annual Reviews**

Miss A had her taxes reviewed yearly for a few years in a row. Since none of the reviews determined she owed any money, she could not understand why it was a yearly occurrence. More importantly, the resulting delay in processing her tax returns meant she couldn't pay her bills on time, which often led to interest penalties. One of those bills related to treating a medical condition. We sent an urgent request for action to the CRA to review her file and as a result, Miss A is no longer subject to reviews on a yearly basis. The CRA informed her that her tax returns may be reviewed in the future if there were reasons for the CRA to review them. Miss A was so pleased with the outcome of our intervention she withdrew her service complaint.

### **Relief for a Single Mother**

Miss Z was informed that she would not be receiving her Canada child tax benefit (CCTB) for two months, and that she was required to pay back all of the benefits for the past three years. As a single mother with three children, she relied on the CCTB to help cover one of her children's medical expenses. Once we determined the error that led to this situation, and notified the CRA, Miss Z's benefits were reinstated in full.

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### **Relief from Double Taxation**

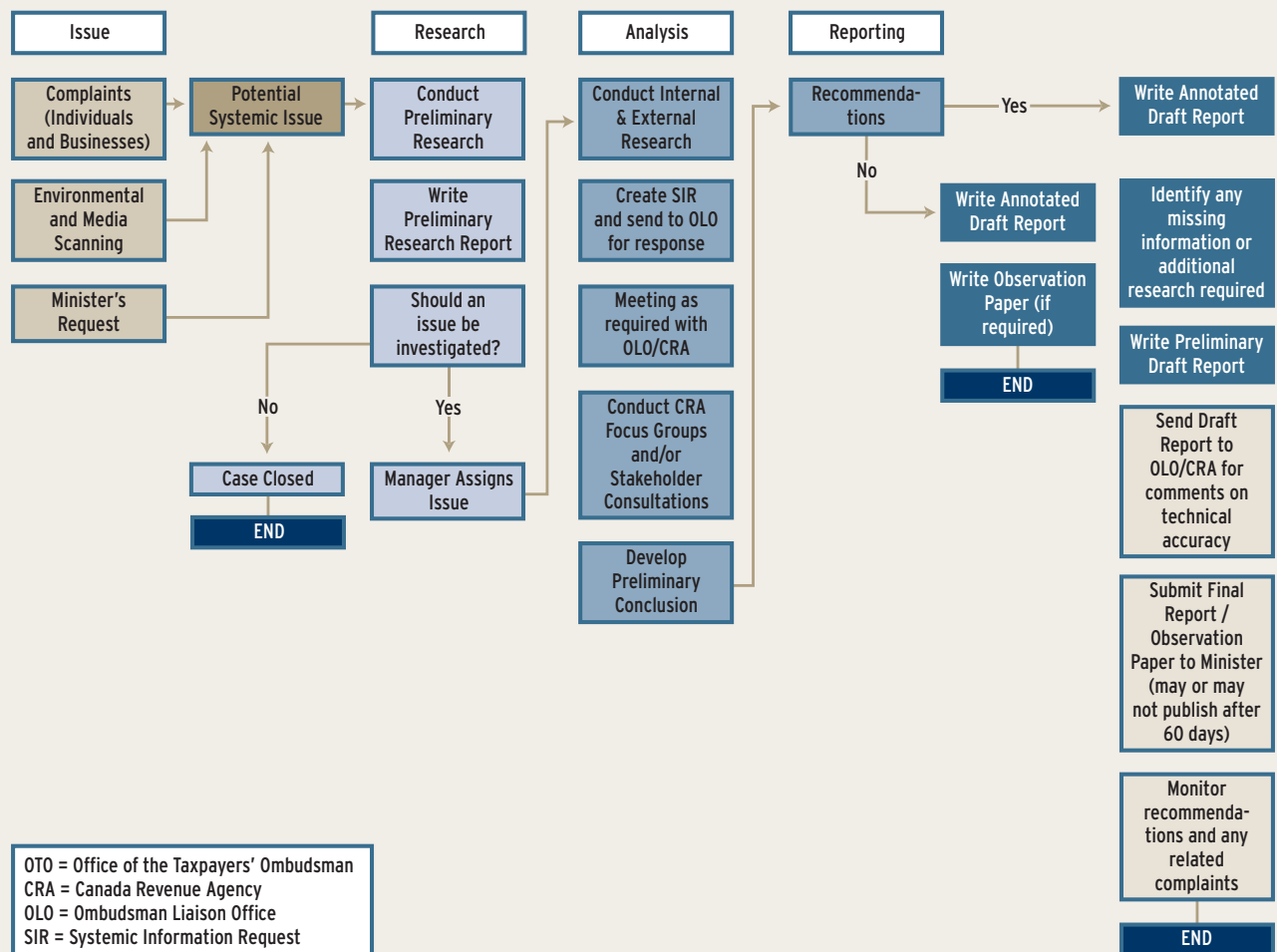
A multinational corporation had noticed that they had not reported the proper amount of net income taxes in two of the countries where they do business; specifically, they overstated the income reported on their Canadian tax returns and understated the income reported on tax returns filed in another country. The corporation contacted the CRA with a plan that the CRA said could possibly rectify all the corporation's tax obligations. The CRA was unable to obtain agreement with the other country's tax authority, and the multinational corporation could potentially be subjected to double taxation. The corporation then filed a complaint with our Office in order to get both a relief from double taxation and the correct information for situations like this. After our investigation, we recommended to the CRA that the corporation's situation be reviewed for relief of double taxation, and a further recommendation to clarify its position towards multinational corporate taxation. The CRA agreed to review the corporation's tax liability.

# SYSTEMIC INVESTIGATIONS – YEAR IN REVIEW

In addition to investigating complaints from individual taxpayers, the Taxpayers’ Ombudsman is mandated to identify systemic and emerging service and fairness issues that have the potential to adversely affect taxpayers. The systemic investigation process includes the research phase, the analysis phase and the reporting phase.

Should the research and analysis phase conclude that the CRA could do more to comply with the *Taxpayer Bill of Rights*, the Ombudsman will submit a Special Report to the Minister of National Revenue with recommendations for corrective action.

## OTO Systemic Investigation Process Map

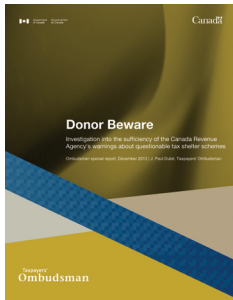


## Special Reports

During the 2013-2014 fiscal year, the Taxpayers' Ombudsman submitted two special reports and made 12 recommendations to the Minister of National Revenue. These reports are summarized below. The complete reports are available on the Taxpayers' Ombudsman's website<sup>1</sup> or by contacting our Office.

To date, the sitting Ministers of National Revenue have accepted all the recommendations made by the Taxpayers' Ombudsman.

### Donor Beware



Canadian registered charities are a major economic and social force that contributes to society through the active engagement of citizens. While corporations also play an active and important role in supporting charities, this report focused on individuals. A donation made

by an individual to a registered Canadian charity will result in a tax credit in the tax year it is claimed, based on the value of the gift or donation. The donor may choose to claim a tax credit based on all or part of the donation on his tax return for the year of donation or in any of the five following years.

Over the past several years programs claiming either to be charities, or associated with charities, have been marketed in Canada offering taxpayers the opportunity to contribute to their programs in exchange for official donation tax receipts several times higher than the amount contributed, resulting in tax credits greater than the amount the donor is out of pocket.

The CRA has reduced or disallowed claims for these types of donations, sometimes even disallowing the actual amount paid by the donor. The CRA determined that the donations claimed were not true gifts according to the law. Generally, to qualify as a “gift”, there must be no expectation of receiving anything in return; however, recent legislative amendments provide that a donor may, in certain circumstances, receive something in return and still qualify as a gift.

As a result, the donor's return is reassessed, the charitable donation claim is disallowed, and the taxpayer is required to pay the tax difference and reimburse any refund received plus accrued interest from the date that the refund from the CRA had been issued and/or tax was deemed as owing.

Furthermore, in some cases the CRA may impose a gross negligence penalty which is the greater of \$100 or 50% of the understatement of tax and overstatement of credits related to the false statement or omission, plus interest.

The CRA has been warning Canadians for the last 15 years of the consequences of participating in abusive tax shelters that it holds to be non-compliant with the *Income Tax Act*. There is a substantial amount of information on the CRA's website and the CRA has published information warning about tax shelters and donating wisely, in a variety of newspapers, magazines and various other media sources. Yet people continue to be persuaded to participate in tax shelter donation schemes.

Our Office received many complaints from donors whom the CRA had found to be participating in abusive tax shelter donation schemes. The donors alleged that they were unaware of the tax consequences when

<sup>1</sup> <http://www.oto-boc.gc.ca/rprts/spcl/menu-eng.html>

they participated in the tax shelter donation scheme. They also alleged that the CRA provided insufficient information to warn them of the consequences. According to the *Income Tax Act*, the CRA has three years from the time an individual's return is assessed to determine whether credits or deductions resulting from an investment in a tax shelter are legitimate.

As a result, many donors had been participating in a tax shelter for a few years before the CRA completed its audit and determined that the tax shelter was not operating in accordance with the law. The CRA then reassessed the donors' tax returns to deny their donation claims; the donors were required to repay any refunds they received, as well as penalties and interest if applicable.

As many donors had been participating for more than one year, this often resulted in very large debts owing to the CRA.

Our investigation revealed that despite the changes in legislation to combat these schemes, abusive tax shelter donation schemes continue to taint the charitable sector, and despite efforts by the CRA to warn Canadians of the consequences of participating in such schemes, it is still seeing abusive schemes operating to which donors contribute, either knowingly or unknowingly. As one donor stated, "We thought that sending medication to Africa to help the people who can't help themselves is a great donation program...also, we were told that the programs are 100% compliant with tax laws."

In this report, we made a number of recommendations intended to address these problems and alleviate their impact on Canadians. We recommended additional

measures be taken by the CRA in communicating warnings to the public about tax shelter donation schemes. We also recommended that the CRA monitor trends in the structuring of, and investing in, questionable tax schemes and make such information publicly available as soon as possible.

### Alive and Well



Coping with the death of a loved one is difficult. People must deal, not only with grief and other emotions, but also with sudden and unexpected administrative burdens. This burden includes notifying banks, insurance companies, and government departments.

The CRA is one of the many government departments that need to be notified of a death as soon as possible.

Information relating to a death may be received at the CRA from executors, beneficiaries, or other third party representatives either by phone, by filing the T1 Income Tax and Benefit Return (T1 Return) or by completing the form<sup>2</sup> Request for the Canada Revenue Agency to update records. This information is updated automatically in the CRA database when it is received electronically, or manually keyed into the system by a CRA employee when it is received by phone, on paper returns, and forms.

The CRA also receives information pertaining to a taxpayer's death from outside sources such as the Provincial Vital Statistic Offices and from the Social Insurance Registry (SIR) maintained by Employment

<sup>2</sup> "Request for the Canada Revenue Agency to update records," CRA website (date modified 2013-01-03), <http://www.cra-arc.gc.ca/E/pub/tg/rc4111/rc4111-pf-e.html>

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and Social Development Canada (ESDC)<sup>3</sup>. Much of this information is uploaded automatically into the CRA's database.

Once notified of a death, the CRA enters a code on taxpayers' accounts declaring them deceased, and this code automatically stops all benefit payments (such as the goods and services tax/harmonized sales tax credit (GST/HST), the Canada child tax benefit (CCTB), and others) that the taxpayer might have been receiving. The entering of the code also revokes any third party authorizations and cancels electronic access to CRA's My Account and My Business Account.

The Minister of National Revenue requested that our Office investigate the CRA's policies and procedures surrounding the entry of dates of death and deceased codes after media outlets broadcast a series of reports on how the Government of Canada had erroneously declared taxpayers as deceased and the difficulties they faced as a result.

Specifically, the Minister asked that we investigate how these types of errors happened and what the CRA could have done to prevent them from happening.

During our investigation, we found that there are various reasons why taxpayers' accounts can be incorrectly updated as deceased. For example, a CRA employee may have entered a date of death under an incorrect Social Insurance Number (SIN), a taxpayer or representative may have made an error filling out a T1 form, or incorrect information may have been received from outside sources.

In the event that this error does occur, it is essential that the CRA be able to fix the problem promptly in order to avoid any further negative consequences. The CRA must continue to make reducing the impact on taxpayers a priority.

In this report, we made several recommendations to the CRA aimed at ensuring that the CRA continues to develop ways to minimize the number of taxpayers who are being declared deceased in error while making it a priority to reduce the impact on taxpayers. This report was submitted to the Minister of National Revenue in February 2014.

### Ongoing Investigations

Included in this Annual Report are details from two investigations which are currently ongoing and a report is expected to be published in the 2014-2015 fiscal year.

#### CRA Training Videos and Respecting the *Taxpayer Bill of Rights*

In 2012, the Minister of National Revenue requested the Taxpayers' Ombudsman to review all training videos in use by the CRA to ensure that they respected the *Taxpayer Bill of Rights* (TBR).

Additionally, the Minister requested that the Ombudsman review all future training videos to ensure that they are consistent with the TBR.

Early in our investigation, we found that the CRA did not have a central inventory of all the training videos in its possession. As a result, in June 2012 the Ombudsman issued an interim report to the Minister, recommending that the CRA develop a national electronic inventory of all its training videos. This recommendation was accepted by the Minister, and in December 2012, the CRA implemented mandatory registration of training videos in its national Directory of Learning Products inventory.

Our office continues to investigate the issue.

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<sup>3</sup> Formerly Human Resources and Skills Development Canada (HRSDC)

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## CCTB Calculation Error

The Canada child tax benefit (CCTB) is a monthly payment paid by the federal government to help families with the costs of raising children.

The June 2011 Federal Budget included a legislative change to the CCTB which required CCTB benefit recipients to notify the Minister of National Revenue, via the CRA, of a marital status change before the end of the month following the month in which the change occurs.

This change was effective as of July 1, 2011. Previously CCTB recipients were not required to report the change in marital status immediately; they could wait until they filed their tax return for the year in which the change occurred.

In August 2012, our Office began hearing allegations from taxpayers that the CRA was incorrectly administering the new legislation, although we had no formal complaints on the issue.

Taxpayers alleged that the CRA was incorrectly applying the legislative changes and it was affecting the amount of their CCTB entitlements. In September 2012, the issue was raised in the House of Commons, where it was acknowledged by the Minister of National Revenue that an error in administering the CCTB had occurred. Subsequently the Minister formally asked the Taxpayers' Ombudsman to examine how the error happened and if appropriate, to make recommendations to help ensure that it did not reoccur.

## Other Investigations

Not all of our systemic investigations culminate in a Special Report. Sometimes we determine that further action by the CRA is not required or that recommendations are not warranted. Although we may not issue a Special Report in such circumstances, the Ombudsman may share his findings with the Minister of National Revenue and the CRA by providing a summary in the Annual Report, or publishing an Observation Paper on the subject. Included in this Annual Report are details from one investigation which was concluded in 2013-2014 where a Special Report was not issued.

## Agent Identification

Taxpayers contact the CRA for various reasons; whether it's to update their address, obtain information concerning benefits, or to set up a payment plan, and taxpayers require a means to reference the discussions.

When taxpayers call the CRA, they have the right to receive complete, accurate, clear, and timely information, the right to be treated professionally, and the right to expect the CRA to be accountable. Taxpayers make over 20 million telephone calls every year to the various CRA enquiries lines, and in order for the CRA to uphold these rights it has to be able to identify the respective agents.



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We received complaints from taxpayers about CRA telephone agents who would not identify themselves. We heard from individuals who received inconsistent or conflicting advice from different agents and from others who had difficulty confirming or updating information they were provided because they did not know who they spoke with previously.

We heard that while some agents provided their full names, others only provided their first names and some refused to provide any identification at all. In response, in 2008 we initiated a review of the CRA's telephone policies and found that at the time, practices at CRA call centres were not consistent nationally. The Ombudsman informally advised the Minister of National Revenue of the issue and he (the Honourable Jean-Pierre Blackburn at the time) subsequently announced a new Agent Identification (Agent ID) greeting policy in March 2009.

Our Office monitored this issue and continued to receive complaints that CRA telephone agents would not identify themselves. During our ongoing investigation, we learned that the CRA was launching a pilot project requiring Business Enquiries (BE) telephone line agents to provide their Agent ID to callers in the initial greeting. In June 2012 these procedures were made permanent and mandatory for BE agents. We then enquired whether CRA was intending to extend the Agent ID policy across all telephone enquiry lines.

As a result of an enquiry from our Office, the CRA advised in February 2013 that it would commit to running an extended pilot requiring the Individual Income Tax Enquiries, Benefit and E-service helpdesk lines provide their Agent ID's as part of their greeting.

The expanded pilot commenced in May 2013 and was adopted as a permanent national procedure in December 2013. The CRA found that the provision of the Agent ID did not have any significant negative impacts to the programs tested in the extended pilot.

We are pleased with the CRA's decision to expand the Agent ID greeting policy to all of its enquiries telephone lines. Our Office is mandated to uphold the *Taxpayer Bill of Rights* and the changes implemented by the CRA will uphold: the right to receive complete, accurate, clear and timely information; the right to be treated professionally; as well as the right to expect the CRA to be accountable. We find that its actions have adequately addressed the issues that were raised by taxpayers.

## Recommendations Made to Date

Ombudsman Special Report	Recommendations	
	Made by the Ombudsman	Accepted by the Minister
<b>The Right to Know</b> – Examination of the sufficiency of information in Decision Letters from the Appeals Branch of the Canada Revenue Agency – Submitted to Minister of National Revenue in August 2010	1	1
<b>Proving Your Status</b> – Establishing eligibility for the Canada Child Tax Benefit – Submitted to Minister of National Revenue in October 2010	5	5
<b>Knowing the Rules</b> – Confusion about the rules governing the Tax-Free Savings Account – Submitted to Minister of National Revenue in June 2011	3	3
<b>Earning Credits</b> – Service and fairness issues in the assessment of tuition tax credits for expenses incurred attending educational institutions outside Canada – Submitted to Minister of National Revenue in March 2012	5	5
<b>Acting on ATIP</b> – Service issues in the Canada Revenue Agency's Access to Information and Privacy processes. – Submitted to Minister of National Revenue in July 2012	7	7
<b>Getting it Right</b> – Investigation of service and fairness issues arising from the misallocation of payments by the Canada Revenue Agency – Submitted to Minister of National Revenue in July 2012	3	3
Memorandum to the Minister of National Revenue recommending an amendment to the <i>Taxpayer Bill of Rights</i> to address the fear of reprisal – Submitted to Minister of National Revenue in February 2013	1	1
<b>Donor Beware</b> – Investigation into the sufficiency of the Canada Revenue Agency's warnings about questionable tax shelter schemes – Submitted to Minister of National Revenue in December 2013	4	4
<b>Alive and Well</b> – Investigation into the erroneous coding of taxpayers as deceased by the Canada Revenue Agency – Submitted to Minister of National Revenue in February 2014	8	8

# INFORMING CANADIANS

## Outreach

This past fiscal year proved to be quite busy for our Office. New tools – notably Twitter and a webinar – were used for the first time by our Office and greatly expanded our reach to taxpayers.

From British Columbia to Newfoundland, we met with tax practitioners and CRA employees to raise awareness of the *Taxpayer Bill of Rights* (TBR) and the role of the Taxpayers' Ombudsman.

Numerous productive roundtable discussions with tax professionals allowed us to learn about their experiences dealing with the CRA while informing them about how our Office can assist them in representing their clients' interests.

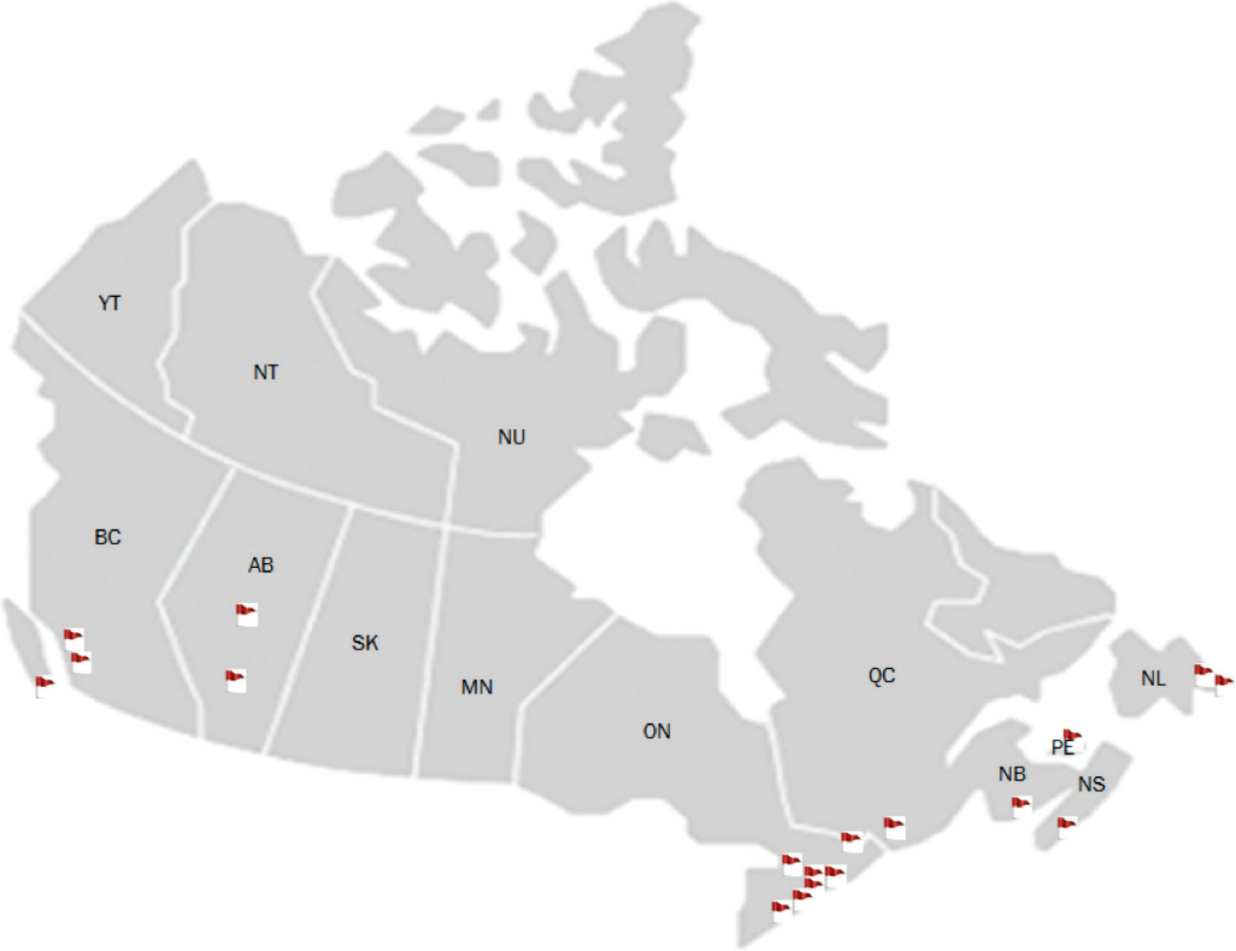
Consultations with CRA employees across the country also provided valuable insight into their work and the challenges they sometimes face in serving Canadians. While we raised the level of awareness and understanding among many CRA employees of the TBR and the role of our Office we will continue to raise awareness within the CRA about the TBR and how our Office functions in order to ensure efficient transfer of information and maintain a productive working relationship.



Meeting with CRA staff

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The following graphic represents the location of our outreach activities in 2013-2014.



Our Office also participated in two joint events with the Minister of National Revenue. At the initial event held in Toronto in May 2013, the then Minister of National Revenue, the Honourable Gail Shea, congratulated us on our fifth anniversary and announced the addition of Article 16 to the TBR. Our fifth anniversary was further highlighted in Edmonton in August 2013 at an event with the newly appointed Minister, the Honourable Kerry-Lynne D. Findlay. The Ombudsman took the opportunity to inform those in attendance that a fifth anniversary information booklet highlighting our commitment to upholding taxpayer service rights would be released to the public the following month. Both events received positive media coverage and illustrate how our Office is making a difference for Canadians.



Media conference for TBR announcement

## Web and Social Media

Our Office expanded its reach to taxpayers by establishing a presence on Twitter and holding our first webinar in 2013-2014. Twitter provides us with a new platform to reach taxpayers who are not typically accessible through traditional media and keep these taxpayers informed of their service rights. In January 2014, we hosted our first webinar. It provided the public with step-by-step instructions on how to file a service or fairness-related complaint with us. We are planning more webinars for the future, as they are an effective way to reach taxpayers across the country.

In the coming fiscal year, we will introduce a new look on our website. The layout of the new website will be consistent with those of other Canadian federal government websites. Its similarity to other government websites will make it easier for visitors to navigate. The website continues to be an extremely valuable source of information for many taxpayers. In our sixth year, our website received over 165,000 visits.

Many taxpayers embraced the online complaint form we introduced in the last fiscal year. We will continue to improve the form in 2014-2015, in order to make it as convenient as possible for the users.

# BEHIND THE SCENES

In addition to carrying out our mandate, we also took several steps to improve our operations.

### Our organization

We reviewed our internal structure and our work processes this reporting period. We assessed how efficiently we do our work and we can ensure that our support systems continue to meet our business needs.

We focused on establishing our strategic priorities for the future to guide our decision-making and operational plans. By setting our strategic priorities over the next couple of years, we intend on meeting our day-to-day operations while continuing to evolve.

We also continued to review and update our processes and procedures in order to continue to meet our service commitment to taxpayers. One important inclusion in our work processes is the enhancement of our Quality Assurance Program.

We performed ongoing review of the quality of our products and our services against a set of standards. The results of this review will allow us to evaluate consistency in our work processes and procedures thereby increasing the quality of our service.

### Our people

The success of our Office depends on the experiences, skills and knowledge of our employees. We therefore invested in employee development to ensure that our employees have the necessary competencies to support organizational success, and the necessary tools and training to perform their roles.

### Our resources

We improved our data-tracking system which allows us to manage our information efficiently. The data-tracking system manages our caseload from initial intake to closing. Not only does this system provide our Office with a secure method of ensuring confidentiality for taxpayers, it also allows us to identify emerging trends, to gather statistics and to detect possible systemic issues.

### Financial resources

#### Summary of expenditures

Expenditures	2013-2014 (\$000)	2012-2013 (\$000)
Salaries	1,664	1,872
Professional Services	25	12
Non-Professional Services	80	-
Training and Education	45	60
Information Technology Services	14	27
Travel	51	21
Office Equipment	11	9
Printing and Publishing	14	19
Office Expenses	13	19
<b>Total Annual Operating Expenses</b>	<b>1,917</b>	<b>2,039</b>

# CONSULTATIVE COMMITTEE

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The consultative committee is made up of accomplished tax professionals with a wealth of experience and a valuable perspective on the service and fairness issues that can arise between taxpayers and the CRA.

The committee provides ongoing and timely advice to the Taxpayers' Ombudsman regarding trends in the relationship between the taxpayer and the CRA.

The committee meets quarterly to:

- Share observations from their interactions with the CRA and the issues their clients face;
- Offer strategic advice on potential systemic issues;
- Assist in identifying stakeholder-specific outreach opportunities; and
- Provide feedback on operational and communication strategies.

The current members of the committee are as follows:

- Mr. Peter Bruno, Vice-President Retail Operations, H&R Block Canada, Inc.
- Mr. Paul Harquail, Partner, Stewart McKelvey Lawyers
- Mr. Paul Osborne, Sole Proprietor, Shadowridge Consulting
- Ms. Corinne Pohlmann, Vice-President National Affairs, Canadian Federation of Independent Business
- Mr. Marc Weisman, Lawyer, Torkin Manes LLP Barristers and Solicitors
- Mr. Roy Berg, Tax Advisor, Moodys Gartner Tax Law LLP

## HOW TO CONTACT US

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You can contact our Office 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 website at **www.oto-boc.gc.ca** and completing our complaint form describing your situation, submitting it online, or 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

To stay informed on our activities, follow us on Twitter @OTO Canada, or subscribe to our electronic mailing list, or add our RSS feed to your feed reader.