

Taxpayers' **Ombudsman**

Independent + Objective = Fair

ANNUAL REPORT 2018-2019

Breaking Down Barriers to Service



Government
of Canada

Gouvernement
du Canada

Canada 

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TAXPAYER

Bill of Rights

The Taxpayer Bill of Rights has 16 rights describing the treatment to which taxpayers are entitled when dealing with the Canada Revenue Agency (CRA). The Taxpayer Bill of Rights also sets out the CRA's Commitment to Small Business. The Taxpayers' Ombudsman is specifically mandated to uphold rights 5, 6, 9, 10, 11, 13, 14, and 15.

A "Taxpayer" is anybody who has interactions with the CRA, including individuals, businesses, corporations, charities, trusts, estates, persons who pay taxes or persons who are exempt from taxes, persons eligible to receive an amount as a benefit, or receive a service from the CRA and their representatives.

1. You have the right to receive entitlements and to pay no more and no less than what is required by law.
2. You have the right to service in both official languages.
3. You have the right to privacy and confidentiality.
4. You have the right to a formal review and subsequent appeal.
5. **You have the right to be treated professionally, courteously, and fairly.**
6. **You have the right to complete, accurate, clear, and timely information.**
7. You have the right, unless otherwise provided by law, not to pay income tax amounts in dispute before you have had an impartial review.
8. You have the right to have the law applied consistently.
9. **You have the right to lodge a service complaint and to be provided with an explanation of our [the CRA's] findings.**
10. **You have the right to have the costs of compliance taken into account when administering tax legislation.**
11. **You have the right to expect us [the CRA] to be accountable.**
12. You have the right to relief from penalties and interest under tax legislation because of extraordinary circumstances.
13. **You have the right to expect us [the CRA] to publish our service standards and report annually.**
14. **You have the right to expect us [the CRA] to warn you about questionable tax schemes in a timely manner.**
15. **You have the right to be represented by a person of your choice.**
16. You have the right to lodge a service complaint and request a formal review without fear of reprisal.

COMMITMENT TO SMALL BUSINESS

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



A MESSAGE FROM the Ombudsman

I am pleased to present this Annual Report on the accomplishments of my Office during the 2018-2019 fiscal year (April 1, 2018 to March 31, 2019). As I write this message, I am nearing the completion of the fourth year of my five-year term. The time has gone by quickly and I am conscious of how short my remaining time is.

We have accomplished a great deal in four short years. We effected positive change in the services provided by the Canada Revenue Agency (CRA) and increased awareness about taxpayer rights and the services my Office provides. But, there is still much to do.

As the Taxpayers' Ombudsman, I offer an alternative perspective on issues presented and find innovative ways to resolve them. During the 2018-2019 fiscal year, I continued to host and attend proactive meetings with management, branches and committees of the CRA, and participate in outreach activities to different regions across Canada and abroad. Both are important to my role and help build and enhance relationships with various stakeholders.

These activities are essential to staying informed on issues affecting people in their interactions with the CRA and offer valuable insights into the fairness of services received. They provide us with a deeper understanding and perspective on the realities many face, allowing us to be more effective as we work to break down barriers to service. These

interactions with people is perhaps what I enjoy most about my role. Whether I am engaging with taxpayers, benefit recipients, tax professionals, community groups, the Minister of National Revenue or the CRA, the focus is on open communications and active collaboration to achieve our common goal of providing and receiving the best possible service.

THE BUILDING BLOCKS OF BETTER SERVICE

Improving the CRA's service requires breaking down barriers in a number of ways. We accomplish this by building relationships, bridging gaps, fostering understanding, engaging in open and active communication, and treating people fairly.

As I often say, the individual who is affected is the deciding factor in determining if the services provided by the CRA meet a need or create an issue. It is important that the CRA works to improve its services by addressing, in its planning and delivery of programs, how its services are received and the challenges faced while trying to access those services.

Receiving individual complaints is so important, not only so we can resolve those issues but also so we can better understand the underlying cause of systemic issues. Many times I hear firsthand of issues that are not represented in complaints filed with my Office. Often they are the result of systemic issues. Having a specific

complaint filed about that issue allows us to better put a face to the issue and understand the particular circumstances and the impact of the issue. Addressing systemic issues is all about removing barriers to service that can affect a large number of people. Knowing how it affects individuals allows us better insight into the issue and allows us to better recommend changes.

As I addressed in my most recent report, *Fair Warning*, the CRA's information silos create a lack of understanding by taxpayers and benefit recipients, and within the CRA. This leads to confusion and frustration. Through receiving complaints, collaboration and outreach activities, we are well positioned to effect change, break down barriers to service, and bridge the gaps in access, understanding and communication.

IN CLOSING

I believe that to receive equitable and fair treatment from the CRA, we must strive for barrier-free services and champion change. As such, I have dedicated my time as Taxpayers' Ombudsman to educating, facilitating, and examining service-related tax issues, to eliminate barriers in the services delivered by the CRA. I thank the employees of my Office for their support, dedication and commitment to service.



Sherra Profit
Taxpayers' Ombudsman

WHO WE SERVE

Anyone who interacts with the CRA, including individuals, businesses, corporations, charities, trusts, estates, persons who pay taxes or persons who are exempt from taxes, persons eligible to receive an amount as a benefit, or receive a service from the CRA, and their representatives.

WHO WE REPORT TO

The Taxpayers' Ombudsman reports to the Minister of National Revenue and is accountable to the Parliament of Canada through this Annual Report. The Ombudsman advises the Minister on any matter relating to the services provided by the CRA, and makes recommendations to improve the CRA's service delivery and correct service issues.

MANDATE

The mandate of the Taxpayers' Ombudsman is to assist, advise, and inform the Minister of National Revenue about any matter relating to services provided to a taxpayer by the CRA.

The Taxpayers' Ombudsman fulfills this mandate by raising awareness of and upholding taxpayer service rights and facilitating the resolution of CRA service-related issues. With her Office, the Ombudsman works to enhance the CRA's accountability and improve its service to, and treatment of, people through independent and objective reviews of service-related complaints and systemic issues.

EDUCATE

Educate people about their rights in dealing with the CRA.

FACILITATE

Help people access CRA redress mechanisms. Facilitate their interactions with the CRA.

EXAMINE

Examine service related complaints with the CRA. Examine systemic issues.

EFFECT CHANGE

Provide feedback and recommendations to the CRA and the Minister about service issues and changes to improve CRA's service.

Mission

The mission of the Office of the Taxpayers' Ombudsman (OTO) is to increase awareness of taxpayer rights and our services, influence positive change in the CRA's service, enhance or improve the accountability of the CRA, and ensure people can trust that an independent resolution of complaints about the CRA's service will be fair.

Vision

Our vision is to ensure that in every interaction, the CRA provides fair treatment and professional service, to help the CRA improve its services, and to preserve the OTO's distinction for fairness, professionalism and effectiveness.

Guiding Principles

The Taxpayers' Ombudsman works to fulfill the mission and vision by adhering to four guiding principles:

Independence

The Ombudsman operates at arm's length from the CRA.

Objectivity

The Ombudsman considers the position and perspective of the complainant and the CRA when examining a complaint or issue.

Fairness

The Ombudsman acts with equity and justice.

Confidentiality

The Ombudsman holds all communications with those seeking assistance in strict confidence and does not disclose confidential communications unless given permission to do so.



Source: Deloitte Insights | deloitte.com/insights

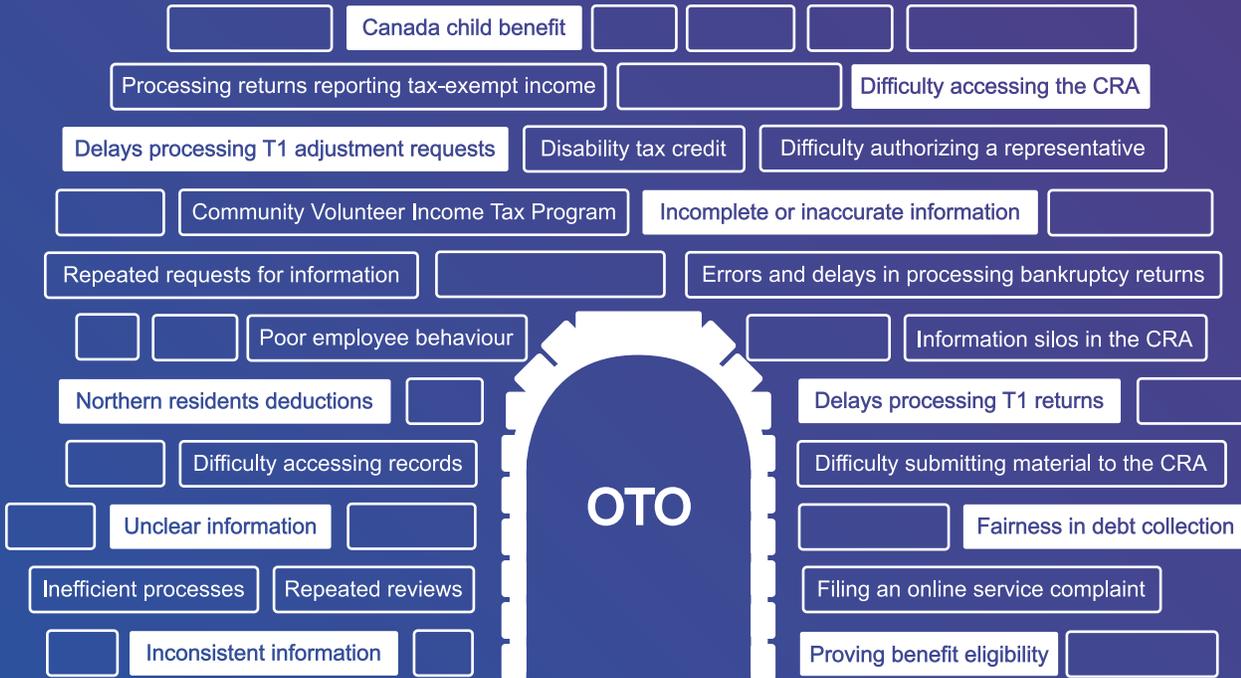
This image demonstrates fairness and what the OTO works towards: Equality – Equity – Removal of systemic barriers.

BARRIERS TO SERVICE

Up against the wall

My Office hears from people every day who are experiencing or have experienced interactions with the CRA that they feel do not respect their rights and which point to barriers to service. We facilitate open and respectful dialogue that considers individual circumstances and provides support to complainants to help them navigate the system to ensure fair access. The specific barriers to service, access and fair treatment experienced by those who contact us are diverse.

We heard of many issues standing between taxpayers and benefit recipients and the services to which they are entitled, including the following:



LISTENING

to those we serve

This year, at outreach and engagement events, meetings, and conferences across Canada and internationally, I had the opportunity to speak to and hear from a wide variety of individuals, representatives, community leaders, experts, professionals, CRA employees and others who play a role in or are impacted by Canada’s tax and benefits regime.



“It was wonderful to engage the volunteers in a discussion with both CRA and the Ombudsman office. I’m confident the discussions that were had will help to strengthen tax services and help those in need!”

– CVITP clinic host, Sudbury

What we heard on outreach

Two-way communication with a diverse audience is fundamental to understanding the issues faced by taxpayers when interacting with the CRA, and guides the work of the Office of the Taxpayers' Ombudsman (OTO). The OTO is committed to continuing to create opportunities to meet with individuals and groups across the country to get a firsthand account of service-related tax issues and to share information on service rights and the resources available when they face these issues with the CRA. The following are some highlights of the Ombudsman's engagements this year.

TALKING CVITP IN SUDBURY, ONTARIO

Members of the team and I met with the United Way and their Community Volunteer Income Tax Program (CVITP) volunteers to get a better understanding of the needs of those they serve. I have received extensive feedback this year on the CVITP from many organizations and provided regular recommendations, both formally and informally, to the CRA and the Minister of National Revenue on ways to improve the program's effectiveness for low-income populations. For example, I suggested the CRA and telecommunications companies explore partnering to assist in providing Wi-Fi services to CVITP clinics. This would be especially useful in the North, where connectivity is a major barrier to accessing the CRA's services. Ensuring the program continually adapts to meet the needs of those accessing its services, as well as the needs of community partners who plan and host the tax clinics, recruit and train volunteers, and have the firsthand knowledge of the communities



Ms. Sherra Profit and OTO staff at an outreach meeting with Yvan Bouchard, Director of the Sudbury TSO.

they serve, is particularly important as the CRA plans the program's expansion after receiving increased federal funding in Budget 2018.¹ I will publish a report on the CVITP in the coming fiscal year, with the results of my extensive consultation with community groups involved in the program and recommendations to the CRA for improvement in areas such as barriers to accessing services; the scope, duration and resourcing of the program; supporting volunteers and partner organizations to avoid burnout; better training for enhanced service; and public awareness and understanding of the program through improved communication.

CHALLENGES WITH THE NORTHERN RESIDENTS DEDUCTIONS IN CAMBRIDGE BAY, NUNAVUT

At the 20th Annual Kitikmeot Trade Show in Cambridge Bay, Nunavut, I presented to delegates and met with individuals, students, and representatives from area government and businesses to gain a better understanding of the unique challenges northerners face when dealing with the CRA. Being immersed in the community for a short time provided a rich

¹ <https://www.budget.gc.ca/2018/docs/plan/chap-04-en.html>



Cambridge Bay, NU, Outreach 2019

opportunity to learn of the barriers faced by northerners. One issue raised by every person I spoke with was the difficulties associated with claiming the Northern residents deductions. I have been proactively informing the CRA and the Minister of National Revenue of the comments I hear on these issues and suggested the CRA consult with northern residents to address issues they face in claiming and proving eligibility for the Northern residents deductions. Recently, the CRA developed a regulatory consultation paper detailing the proposal to simplify the lowest return airfare requirement. Canadians will have a further opportunity to comment on the proposed changes when they are published in the Canada Gazette. I have already provided my initial comments on the proposed changes. While applauding the flexibility, I raised the potential for confusion with the proposed terminology, the potential challenges associated with increasing the ambiguity of the regulations around the concept of reasonableness, and the lack of guidelines to assist in interpreting the proposed changes.

BRINGING THE TAXPAYER BILL OF RIGHTS TO THE INTERNATIONAL STAGE

I participated in several international conferences to liaise with counterparts from other jurisdictions and learn more about the treatment of taxpayer rights in other countries. At the 3rd Annual International Conference of Taxpayers' Rights in Amsterdam, Netherlands, I participated in an international survey conducted by the Observatory on the Protection of Taxpayers' Rights. The aim of the research is to identify principles, minimum standards and best practices for the effective protection of taxpayer rights, allow for monitoring, and raise public awareness of the link between human rights and taxation.² Participation in international dialogues allows for the demonstration of Canada's strength in the area of taxpayer rights, as well as reflection on best practices with respect to identified areas where our tax administration could be further improved. My response was published on the International Bureau of Fiscal Documentation (IBFD) website.

² International Bureau of Fiscal Documentation website, ibfd.org/Academic/Observatory-Protection-Taxpayers-Rights

OUTREACH

by the numbers

Outreach is central to my mandate as Canada's Taxpayers' Ombudsman, allowing me to stay at the forefront of the issues affecting taxpayers and benefit recipients.

MEMBERS OF MY OFFICE AND I ATTENDED AND PRESENTED AT MANY OUTREACH EVENTS:



hosted a booth at **8** trade shows



spoke at **4** conferences or trade shows and conducted **4** town halls



met with **10** community organizations



met with **5** groups of tax professionals



addressed **4** groups of secondary and post-secondary students



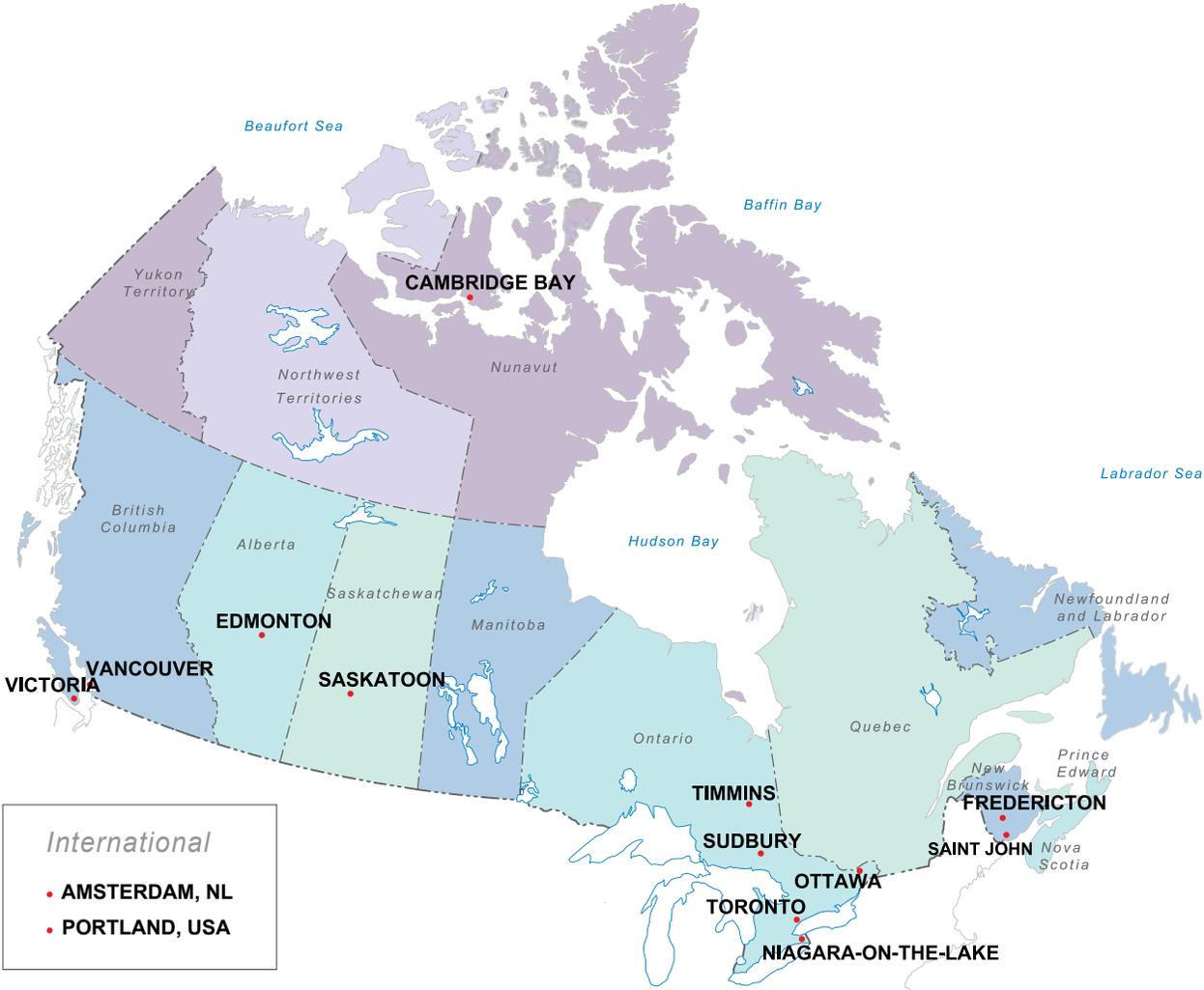
gave **13** presentations to the CRA Board of Management and CRA employees (Headquarters and Regional offices)



met with **5** government and ombuds offices



met with **5** elected officials (federal, provincial/territorial and municipal)



“I learned a lot at the session, so glad I attended.”

– Financial Management Consultant, Timmins.



Sherra Profit meeting with volunteers at a CVITP Clinic.

We have also been exploring new and innovative ways to reach a greater number of groups and individuals. In 2018-2019 a more strategic approach on social media to raise awareness resulted in increased engagement on the OTO Twitter feed. The OTO's engagement rate increased exponentially, as did the impressions made through the online messaging and total followers.

@OTO_Canada

#TaxRightsCAN



TWEETS

171



FOLLOWERS

1169



IMPRESSIONS

156.7k



RETWEETS

130



LIKES

112

Statistics for the Twitter account

WHAT WE HEARD

from complainants

We continually monitor complaints and general enquiries we receive to identify trends. I report quarterly to the Minister of National Revenue to advise her of the issues and concerns raised by complainants, and to identify issues that may require examination from a systemic perspective.

The most frequently raised issues in service complaints filed and in calls to our general enquiries line were:

- Delays in processing personal income tax and benefit (T1) returns
- Delays in processing T1 adjustment requests
- Unclear and inconsistent information provided by agents answering the CRA's individual tax enquiries line
- Lack of fairness in the debt collection process for T1 returns

My Office has acted, and continues to act, using the various tools at our disposal, to address trending issues on a systemic level.

Complaints and enquiries by the numbers

Complaint volumes have remained consistent with the previous fiscal year. A total of 1,920 complaints were received in 2018-2019. The Office closed 1,971 complaints, helping to meet the Minister's request and our goal to reduce the backlog of open complaint files.

With some exceptions such as complaints requiring immediate action due to compelling circumstances, or which are indicative of a greater systemic issue, there are three steps in the service complaint process. Before we open an examination into an issue, we ensure that the complainant has attempted to resolve the complaint at the lowest possible level, first by speaking to the CRA employee handling their file or their supervisor, and subsequently filing a complaint with the CRA Service Complaints Program (CRA-SC). We referred a total of 737 complaints to CRA-SC this year.

"... one of the articles [of the Taxpayer Bill of Rights] we use the most or get the most complaints on, is lack of timeliness"

– Sherra Profit, CPAC

Complaints and enquiries by the numbers (cont'd)

While the number of complaints remained steady, the number of issues identified in those complaints rose by 88%. Increased diligence by our Intake and Examination Officers in identifying and tracking all issues in a complaint, to ensure full resolution of complaints and more accurate tracking of trends in the issues, is the main reason for this increase.

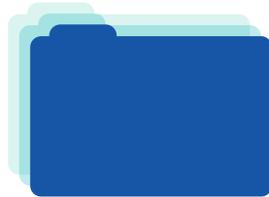
The volume of calls received by my Office has decreased. We answered 1,992 general enquiries by telephone, 33% fewer calls than received in 2017-2018. The percentage of those calls that were not related to our mandate also slightly decreased in this period. With continued outreach efforts, improved web content and increased presence on social media, those who want to learn more about the OTO's mandate and how we can help may be using more self-service options.

The OTO team provides a valuable service at every stage of our complaint process. These services are wide ranging and include:

- explaining the complaint process
- providing advice and guidance
- facilitating access to the CRA's complaint resolution process to ensure resolution at the lowest level
- facilitating access to other complaint resolution mechanisms when the issue is outside our mandate
- requesting the CRA take urgent action for complainants in dire need
- checking in regularly with complainants through the examination process to keep them informed
- obtaining information from the CRA for complainants that they could not access on their own
- recommending the CRA take a specific action to resolve an issue
- providing a non-judgemental ear for complainants to share their concerns and issues

“Thank you for your support and interest in my situation. I’m very proud of Canadian Institutes such as yours, OTO.”

– *Taxpayer*



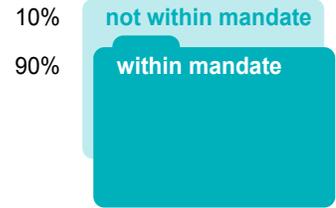
OPENED

1,920 files



IDENTIFIED

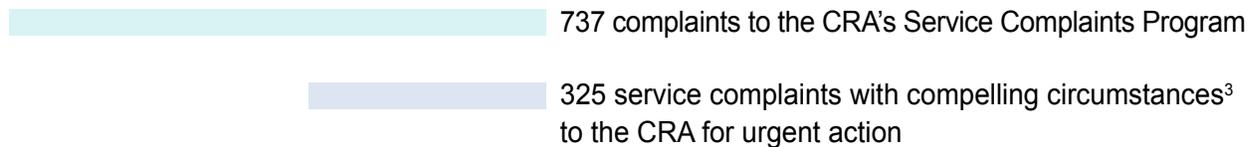
4,742 issues in the complaints received



CLOSED

1,971 files

REFERRED



COMPLETED

197 examinations

in at least **59%** of issues examined, the OTO found that one or more of the complainant's service rights were not respected



COMPLAINTS

1,920 received

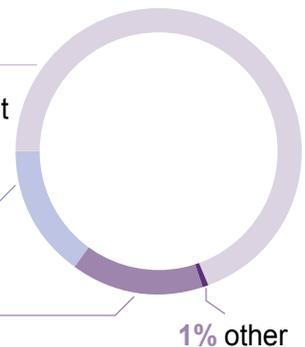
70% electronic complaint form on our website

15% mail

14% fax

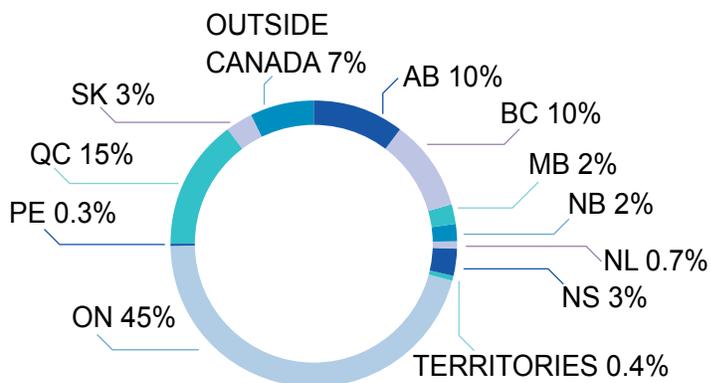
1% other

METHOD OF SUBMISSION



BREAKDOWN OF COMPLAINT FILES

per province and territory



3 The [Order in Council](#) (OIC) states the Ombudsman may review a request without waiting for the results of other recourse mechanism if there are compelling circumstances. Compelling circumstances may be related to, but are not limited to: financial hardship, other hardship, timeliness of resolution or are part of a systemic issue.

BUILDING BRIDGES AND MENDING FENCES

Working with the CRA to resolve service complaints

As an ombudsman, my role is not that of advocate for the complainant, nor defender of the CRA. I work to help reduce the power imbalance between the two. I review service issues on my own initiative, upon receipt of a complaint, or at the request of the Minister. My Office and I have a number of formal tools at our disposal to address issues and improve service, such as: Urgent and non-urgent Requests for Action, Requests for Information, Requests for Service Improvements, and recommendations for change as a result of systemic examinations. The scope and nature of issues raised dictate how we work to improve the situation for those affected, and the tools we use to effect change.

My Office operates independently and at arm's length from the CRA. With consent, the CRA grants us access to complainants' information, to conduct an impartial examination. We also regularly request information and updates on CRA programs and services, and provide regular feedback to the CRA. We make requests for information and updates through

the CRA's Ombudsman Liaison Office (OLO) in the Service, Innovation and Integration Branch. The OLO is the CRA's designated point of contact for our Office, responsible for ensuring we have access to relevant information from all areas of the CRA.

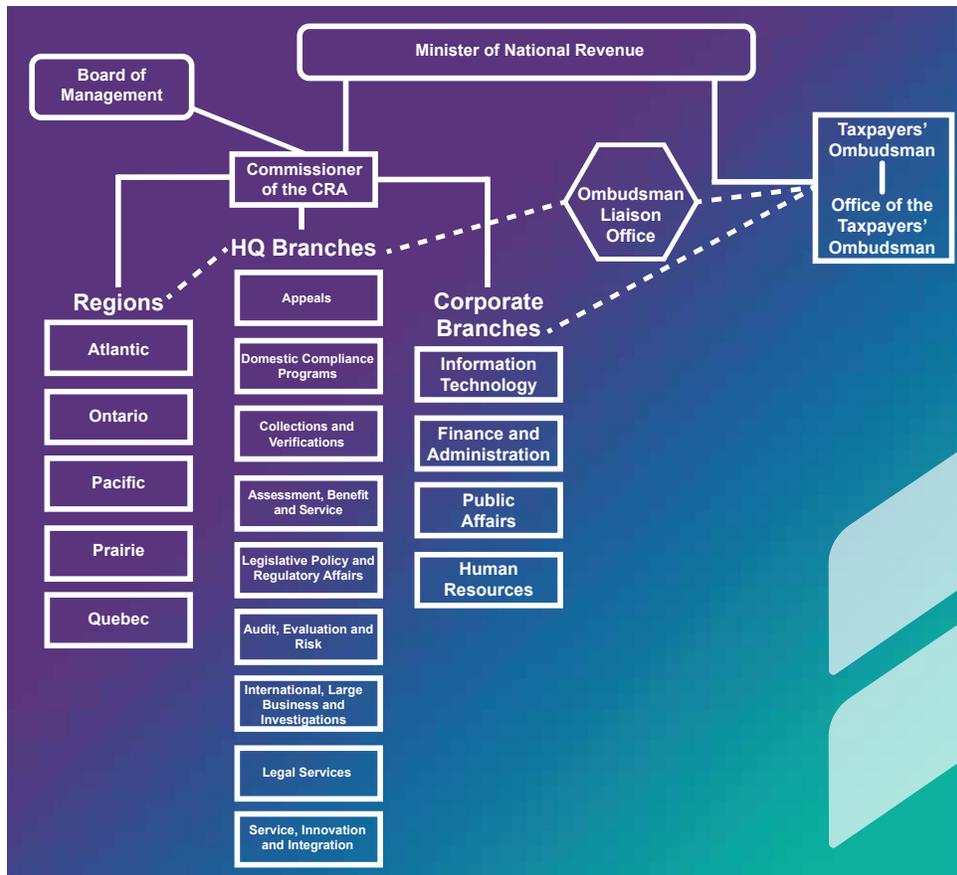
The following diagram illustrates reporting relationships, and the information sharing protocol established by the CRA to govern its interactions with my Office.

My Office may make a Request for Information to the CRA to provide us with relevant information and documentation for our examination, or to provide to the complainant. We may also seek resolution to a complaint through a Request for Action recommending the CRA take a specific action we deem necessary. These requests are formulated by our Examination Officers and are sent to the CRA through the OLO.

At the end of the examination of a complaint, my Office shares the findings with the CRA and the complainant. To resolve individual complaints, the following are examples of actions we may request of the CRA:

- give further reasons for a decision;
- correct a misunderstanding, omission, or oversight;

- review a decision based on information not previously considered;
- provide an apology;
- change a policy or procedure;
- change a system or application;
- review its service standards;
- arrange a meeting with a complainant;
- provide a dedicated contact person;
- consider further staff training.



LEGEND:

- Working relationships
- Reporting structures

Working with the CRA to resolve service complaints.



The following case summaries show how we work with the CRA to resolve complaints impartially.

LOOKING FOR REASONS

A taxpayer who was not a resident of Canada filed their income tax return with a special election, believing they would be refunded all income tax taken at source for that tax year because of their non-resident status. The refund received from the CRA was not in the amount expected. The taxpayer contacted the CRA and was informed that the CRA had conducted an assessment based on the results of a hypothetical calculation taking into consideration the taxpayer's circumstances, as known by the CRA. According to the CRA, this process resulted in the most beneficial outcome for the taxpayer; however, no information was provided to the taxpayer to allow them to understand and assess the decisions made by the CRA. They filed a service complaint with the CRA asking for the exact calculations used

in making its determination; however, after multiple unsuccessful attempts at obtaining the information, the taxpayer turned to my Office. My Office used the Request for Information tool to obtain the exact calculations used in the assessment and the CRA contacted the taxpayer to explain the reasons behind its decision following our Request for Action.

RUNNING OUT OF TIME

A taxpayer who was required to provide copies of previous years' Notices of Assessment to Family Court had been trying unsuccessfully to reach the CRA's Individual tax enquiries line to update their personal information and request the Notices. After several weeks of calling without getting through to a CRA representative, the taxpayer filed a complaint with my Office. Their need for the documentation had become urgent. If they did not provide the Notices, there would be negative legal consequences and costs. My Office sent an Urgent Request for



Action to the CRA and, as a result, an officer from the CRA contacted the taxpayer the next day. The taxpayer was able to update their address and request the required documents. A few days later, a letter and the requested documents were sent to the taxpayer.

CORRECTING ERRORS

A taxpayer received a Notice of Reassessment requiring payment of Harmonized Sales Tax (HST) owing for the 2010 and 2011 reporting periods, plus penalties and interest. They stated that in 2014 they filed and paid the HST amounts owed and had applied for relief from the penalties and interest, which had been granted on April 5, 2016. We requested and the taxpayer provided, a copy of the April 5, 2016, letter, and proof of the payments. We requested information from the CRA. During our examination, we found: the CRA received the returns in 2014 but was not timely in its processing; due to the delay in processing, the taxpayer's payment was not applied in a timely manner and the adjustment to cancel the

penalties and interest could not be processed in a timely manner. Therefore the CRA took legal action to recover a debt that would not have existed had they processed the returns and applied the payment when received. My Office requested the CRA address the issues identified regarding the taxpayer's returns, payments, and the application for relief from penalties and interest. As a result of our examination and Request for Action, the CRA reviewed the taxpayer's account, confirmed the payments had been misapplied, and confirmed that the CRA's Taxpayer Relief Program's original review had not addressed the instalment interest. The CRA conducted another review and cancelled the instalment interest which left a credit to the taxpayer's account for that period. We requested the CRA apologize and provide an explanation of its actions. The CRA sent a letter of regret to the taxpayer which included an explanation of the errors it made and the steps it took to correct their account.

“[The CRA needs to] look at how those decisions are made to ensure that they're not being arbitrarily made.”

– *Sherra Profit, CPAC*



TAKING DOWN THE WALL

Systemic work of the OTO

In addition to addressing individual complaints, we seek to systemically improve the CRA's services by removing the barriers to service and addressing underlying issues to the individual complaints. We seek to identify CRA service issues that may negatively impact a particular segment of the population or a large number of persons. To do this, we continually assess enquiries we receive; complaints filed with our Office; feedback we receive through outreach; and issues raised in the public environment, such as in the media, on social media, and in Parliament. Once identified, we may conduct further research, initiate a systemic examination, do a Request for Service Improvement, or informally bring the issues raised to the attention of the Minister and leadership at the CRA.

Request for Service Improvement

Progress is impossible without innovation. Last year the Office developed a new process tool, a Request for Service Improvement (RFSI), which enables me to raise issues to the CRA that affect a particular segment of the population or large numbers of persons, and suggest ways to improve its services without conducting a full systemic examination.

This year, as the result of an RFSI, the CRA updated its supervisory callback procedures to clearly indicate that employees from the CRA's various enquiries lines must leave their direct contact number, not the CRA's general toll-free number, in voicemail messages when returning calls. We heard complaints of frustration with

“It is not sufficient for the CRA to provide information that can be understood; it must provide information that cannot be misunderstood.”

– Sherra Profit, CPAC

not being able to reach the person leaving the voicemail and having to restart the sometimes time consuming and frustrating process of contacting a front-line agent, re-explaining their issue, and restarting the escalation process through the general enquiries toll-free lines.

My Office also suggested, through an RFSI, that the CRA improve the clarity of available information on the processes for making online service complaints and reports of employee misconduct, as well as making the submission of those complaints a more user-friendly experience. The easier it is to file a complaint, the more likely people are to use these mechanisms and thereby improve the CRA’s service.

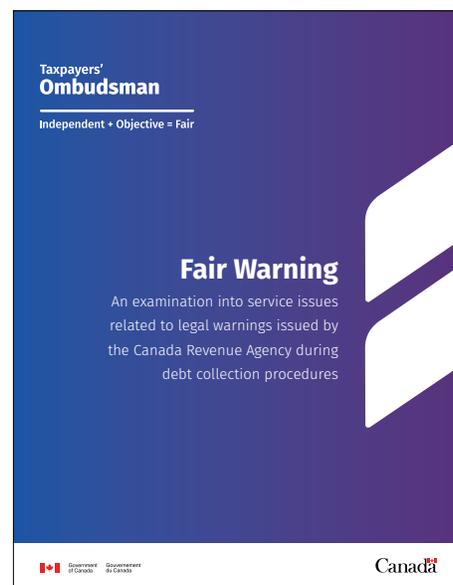
In another RFSI, we requested the CRA make the necessary amendments to the *General Income Tax and Benefit Guide* to provide a clear and accurate definition of “specified foreign property,” including what does and does not constitute “specified foreign property.” As outlined in the Taxpayer Bill of Rights, taxpayers have the right to complete, accurate, clear and timely information. The ability to comply with one’s tax obligations is dependent on understanding them.

RFSIs have proven to be a fast and effective way for my Office to work to break down barriers with the CRA and improve service.

Systemic Examinations

Fair Warning

On March 6, 2019, my Office published *Fair Warning*⁴, a systemic examination report on legal warnings issued by the CRA to taxpayers during its debt collection process. This examination was launched in February 2017. Research for the report was initiated based on complaints received from taxpayers stating the CRA was garnishing their wages or had frozen their bank accounts without notice, to collect amounts owing. The examination did not look into the fairness of actions the CRA may take to collect a debt, but rather, the processes in place prior to the CRA taking legal action.



4 The full report is online at www.canada.ca/en/taxpayers-ombudsman/programs/reports-publications/special-reports/fair-warning.html

We found only a small number of taxpayers appeared not to have received a legal warning prior to the CRA taking legal action to collect the debt. However, the legal warnings were not clear enough for taxpayers to understand the process, what constitutes “legal action”, and the seriousness of the actions the CRA could take. We also found deficiencies in the information communicated by the CRA, including availability of information to taxpayers and use of inconsistent terminology. For example, we found a lack of clarity around payment arrangements. Many taxpayers complained that they were making their payments, which they thought would stop the CRA from taking further action to collect the debt, only to have CRA proceed with actions such as garnishment.

Fair Warning contains nine recommendations to the Minister of National Revenue. All recommendations have been accepted by the Minister of National Revenue and the CRA.

The nine recommendations presented in the report call for the CRA to:

- Shorten the validity period of the legal warning from 365 days to 180 days;
- Update its policies to ensure all relevant information is given to taxpayers when they are issued a legal warning;
- Update information available to taxpayers on the collection process;
- Update its internal and external messaging to ensure all debt payment and collections related terminology is clearly and consistently defined and used;

- Ensure sufficient training is provided to all staff in the collection process;
- Conduct a fulsome review of processes, policies, and information regarding payment arrangements;
- Make information available to taxpayers on the requirements for a binding payment arrangement;
- Send confirmation letters to taxpayers who make payment arrangements; and
- Regularly review its payment and collection policies and procedures to ensure they align with a service approach consistent with the Taxpayer Bill of Rights.

Examinations launched

Delays in processing T1 returns and adjustment requests

For the past two years, my Office has observed a strong trend in complaints related to delays in the CRA’s processing of individual income tax and benefit returns and adjustment requests. In March 2019, we formally launched an examination into these issues. While the CRA indicates it mostly meets its service standards for processing T1 returns and adjustment requests, the volume of complaints and our preliminary research indicate there are systemic issues to be examined. A delay in processing a return or adjustment can result in delays issuing an income tax refund and delays in receiving payment of benefits. The impact can range from the inconvenience of having to make multiple follow-up enquiries to the CRA, to the catastrophic financial and

personal hardship that can result from delays in receiving the benefit income one depends on.

We are currently researching the causes of the delays, and the content and quality of information the CRA provides publicly, and in-person about the status of individual returns and adjustment requests. Through this examination, we will provide guidance and recommendations to the CRA for improving these issues as they make changes with the additional funding in Budget 2019⁵. Citing findings from our 2017-2018 Annual Report, the Budget commits \$34 million over five years to the CRA to hire additional staff to process T1 adjustment requests more quickly.

Taxpayer rights as a foundation in the CRA

My Office launched a systemic examination on the degree to which taxpayer rights, as articulated in the Taxpayer Bill of Rights, and the values they represent, form the foundation of the CRA's daily activities and interactions with taxpayers, and how the CRA ensures it is accountable in upholding taxpayer rights. To ensure CRA employees deliver programs and services, and interact with people, according to the rights outlined in the Taxpayer Bill of Rights, it is important for the CRA to achieve widespread understanding of and respect for those rights by its employees. Some preliminary observations were shared with the Minister and the CRA. We continue research and work on

this examination to identify if gaps exist in the CRA ensuring its daily activities are reflective of taxpayer rights, and to assess the CRA's effectiveness in reporting on the way in which it upholds taxpayer rights.

Ongoing research

My Office is also conducting research into service issues arising from the information provided by the CRA concerning the exemption under subsection 81(1) of the *Income Tax Act*.⁶ The examination will focus on information and processes around Status Indians⁷ filing returns with exempt income.

Follow-up on recommendations

My Office follows up on and analyzes the effectiveness of the CRA's actions taken in response to recommendations made in previous systemic examination reports⁸. This year, we created a web page entitled "Influencing Change"⁹ on which we publish the results of our analysis as we continue to follow up on the changes implemented as a result of the findings of our systemic examinations.

5 Government of Canada website, budget.gc.ca/2019/docs/plan/toc-tdm-en.html

6 Income Tax Act (R.S.C., 1985, c. 1 (5th Supp.)) Government of Canada Justice Laws website, laws-lois.justice.gc.ca/eng/acts/l-3.3/index.html

7 The Office of the Taxpayers' Ombudsman recognizes that many Indigenous Peoples in Canada do not use the term "Indian". This terminology is used per its legal meaning in the *Indian Act* (Indian Act (R.S.C., 1985, c. I-5). Government of Canada Justice Laws website, laws-lois.justice.gc.ca/eng/acts/i-5/

8 Taxpayers' Ombudsman website, canada.ca/en/taxpayers-ombudsman/programs/reports-publications/special-reports.html

9 Taxpayers' Ombudsman website, canada.ca/en/taxpayers-ombudsman/programs/examining-systemic-issues/influencing-change.html

BRICK BY BRICK

Recommending change



A systemic issue must often be broken down into smaller sub-issues and addressed from more than one angle, over time, to bring about change. At every opportunity, my Office shares ideas and insight gained through outreach and complaints to draw attention to the impact of CRA programs and activities on people, and ways to improve service. The daily work done behind the scenes, in conversations and correspondence, may appear insignificant; however, it has the ability to bring about incremental change and improvements with real impact, as you can see from the example below.

CANADA CHILD BENEFIT

We hear regularly from community organizations who support vulnerable groups, as well as benefit recipients themselves, who struggle with the Canada child benefit (CCB) application

process or who experience difficulties proving their eligibility for the benefit. This can be due to a lack of clarity in the CRA's requests for information, inability to obtain the accepted documentation according to the time frames afforded, and a lack of accepted alternatives for those without the resources or ability to meet the prescribed process and documentation. Numerous complainants came to OTO in crisis due to the loss of their CCB, which we treated with an Urgent Request for Action to the CRA.

In 2018-2019, my Office worked diligently on a number of fronts to address some issues at the root of these difficulties. I provided recommendations to improve both the CCB application form and the CCB application guide, including making the language more inclusive of the diversity of applicants and their family situations, to be clearer about what type of information is required, and to be more explicit

IN MEETINGS, BRIEFINGS AND PRESENTATIONS OVER THE COURSE OF THE YEAR, ON THE CCB, I ENCOURAGED THE CRA TO:

- conduct further analysis on the reasons why some populations, including Indigenous persons, are reluctant to apply for the benefit;
- provide more and individualized options for proving eligibility, which reflect the realities and diversity of people's lived reality;
- be more aware of the consequences and impacts of policy changes on impacted segments of the population, particularly those which are unintended, such as the increased likelihood of review after filing multi-year returns;
- partner and collaborate with community groups serving low-income and vulnerable populations to better understand their needs and challenges;
- proactively provide more time to respond to requests for information when delays are anticipated, such as for rural or remote populations; and
- retain digital copies of documentation and ensure CRA employees involved in the processing of the file have access to them, to avoid the need to resend the same proof of eligibility.

about the application process itself. These changes were taken into consideration by the CRA and many of them implemented.

Bringing a different perspective, and reflecting the program back to the decision makers at the CRA through the lens of impacted individuals, is an important step in laying the groundwork for change.

Finally, I recommended to the CRA that it explore, through a collaborative design process it implemented, how to relay information on acceptable documentation for proving entitlement to CCB in a manner that is easy to understand and can be easily adapted to a person's particular circumstance. We continue to push for change to improve the administration of the CCB for those who need it most.



MEASURING our performance

My Office is required by the Treasury Board of Canada Secretariat to report annually on established performance indicators. Performance indicators provide a measure of the actions we took to resolve service issues and demonstrate our success in effecting positive change within the CRA.

KEY PERFORMANCE INDICATORS FOR 2018-2019

	Target	Actual
1 Percentage of recommendations made by the Ombudsman to the Minister in systemic examination reports that will be acted upon by the CRA.	90	100
2 Percentage of taxpayer complaints acknowledged within two business days.	95	94
3 Percentage of individual complaint examinations resulting in the CRA taking action.	80	84

Performance indicators for the OTO, including our target and actual performance.

In the next fiscal year (2019-2020), the third indicator will be revised to increase transparency and accountability around the processing of files in the Office. We will report on the number of examination files closed within 120 calendar days. Our target will be to meet this goal 80% of the time.

There are numerous factors that impact the length of time required to process a file and resolve a complaint, including the timely receipt of complete and accurate information from both the complainant and the CRA, the complexity and number of issue(s) raised in a complaint, the total volume of complaints received by the Office and the resources available to complete the processing and examination of the complaints.

My Office relies on the CRA to provide the complainant's relevant tax information required for the examination once the complainant provides their consent. To resolve a complaint we may also recommend the CRA take specific actions. The table below illustrates the timeframes set out in the service level agreement between the CRA's Ombudsman Liaison Office and the Office of the Taxpayers' Ombudsman, and the percentage of time the request was completed within the prescribed timeframe.

TYPE OF REQUEST	SERVICE STANDARD	% RECEIVED WITHIN THE SERVICE STANDARD**
Request for Information	15 business days, 90% of the time	46%
Urgent Request for Action*		94%
Non-Urgent Request for Action		59%

*For Urgent Requests for Action (URFA), the CRA is expected to communicate with the taxpayer within 72 hours of receipt of the URFA. The CRA is expected to provide the complete URFA response to the OTO within 15 business days.

**This table does not reflect that there are times when an extension to the time period is granted, at the request of the CRA.

FINANCIAL

While my Office operates at arm's length from the CRA, the funding approved by the Treasury Board of Canada Secretariat for the operation of the Office is part of the CRA's allocation. Consequently, the Office is subject to the legislative, regulatory and policy frameworks that govern the CRA.

Request for additional funding

Since its inception over 10 years ago, the OTO operational budget allocation has remained the same while the volume of complaints the Office receives on a yearly basis has increased greatly over the same period of time. In the last five years alone (fiscal years 2014-2015 through 2018-2019), the number of complaints received by the OTO has increased by 44%, resulting in a corresponding increase in the individual and systemic examination workloads driven by those complaints.

To address these workload and financial pressures that can negatively impact the service levels the Office is able to provide, and to bring the funding level of the OTO closer to other Federal Ombudsman's Offices (such as the Office of the Veterans Ombudsman and the Office of the Correctional Investigator), I presented a business case for additional funding to the Minister of National Revenue. Through the business case, I requested a permanent increase in the Office's base funding, to allow us to hire 10 additional full-time staff over 2018-2019 and the two subsequent fiscal years. Specifically, the additional funding would permit

permanent staffing of positions in the Office, in line with the number of employees required to handle the increased volume of enquiries and complaints received, in a fulsome and timely manner, and reduce burnout and employee turnover due to precarious employment status.

As a result of my request for funding, the Minister allocated the OTO temporary funding for 2018-2019 and the following two years for two additional resources per year, for the purpose of addressing the increase in individual complaints and reducing the backlog of individual examination files. The Minister advised that the CRA currently has a number of significant initiatives underway to review how it serves taxpayers and to identify efficiencies and make improvements, and anticipates these changes will reduce the number and alter the nature of complaints to the CRA and to the OTO over time.

Despite the CRA's current initiatives, my Office provides a service and a mechanism for complainants to share their concerns and issues that will always be necessary. The OTO offers oversight of the ways in which taxpayers are treated. In the spirit of independence, objectivity, fairness, and confidentiality, I will continue to seek to maintain adequate funding and ensure taxpayers' service-related rights and reasonable expectations of transparency, accountability and objectivity are respected.

2018-2019 Summary of Expenditures

<i>In thousands of dollars</i>	
Personnel (includes employee benefits)	2,622
Transportation and communications	54
Information	39
Professional and special services	142
Rentals	4
Utilities, materials and supplies	18
Acquisition of machinery and equipment	16
Real Property Accommodations	203
Total	3,098

RELATED PARTY TRANSACTIONS

<i>Corporate services provided by the CRA*</i>	<i>In thousands of dollars</i>
Finance	89
Information technology	88
Publishing	24
Total	201

**The amounts shown under related party transactions represent funding that has been transferred by the Office of the Taxpayers' Ombudsman (OTO) to the Canada Revenue Agency (CRA) for services rendered in the areas of Financial Administration, Information Technology, and Publishing. These amounts signify costs to the OTO that are in addition to the expenditures presented in table 1. This partnership has allowed the OTO to increase efficiency by leveraging the CRA's expertise in these areas, and to ensure adherence to necessary policies and procedures.*

Proactive Disclosure

Compliance with the Treasury Board of Canada Secretariat and CRA financial management policies requires the mandatory publication of the Taxpayers' Ombudsman's travel and hospitality expenses. It also requires disclosure of contracts entered into by our Office for amounts over \$10,000.

Information on our proactive disclosures can be found by selecting either the Travel Expense, Hospitality Expense, or Contract Disclosure Reports links on our Transparency web page and searching for "Taxpayers' Ombudsman."

CONTACT US

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Outside Canada and the United States, call collect **+1-613-946-2310** or fax us **+1-613-941-6319**.

OFFICE HOURS

Our Office hours are **8:15 a.m.** to **4:30 p.m.**
Eastern Standard Time, Monday to Friday
(except holidays).

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We are moving! Starting fall 2019,
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To stay informed on our activities:

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- Add our RSS feed to your feed reader: canada.ca/en/taxpayers-ombudsman/news/rss-feed.html

Visit our website

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Write to us, make an appointment for an
in-person meeting.