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## Managing Tax Disputes: Fall Update on Recent Developments and Trends

**Quarterly Perspectives on Tax Law Series**

September 25, 2025

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## ▼ Agenda

- Current enforcement environment
- Recent developments – legislation, voluntary disclosures, cases
- AI in tax audits
- Best practices for tax dispute management and audit trends
- Q&A

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▼  
Current  
enforcement  
environment

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# Overview of Federal Deficit, Tax Gap, CRA Staffing and ROI

## Federal Deficit Trends

The federal deficit was \$48 billion in 2024–25 (\$40.4 billion in 2023-24), projected to halve by 2029-30, showing fiscal stabilization efforts.

## Tax Gap and Compliance

The net tax gap narrowed to \$18.1–\$23.4 billion due to effective CRA enforcement reducing non-compliance significantly.

## CRA Staffing

- CRA staff increased by 31% from 2017 to 2024
- In 2024, 1 CRA employee per 790 Canadians vs. 1 / 4,340 Americans
- In 2025, union-reported reduction of ~13%
  - In line with the 15% budget cut mandate – now 1 CRA employee per 912 Canadians

## Return on Investment (TEBA)

Every dollar invested in CRA yields five dollars in recovered revenue, underscoring efficient tax recovery programs ( ... accuracy concerns?)

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## Current enforcement environment

### • 2023-2024 Departmental Results Report

- The CRA is made up of 14 functional branches and 4 regional offices across the country
- In 2023–24, total full-time CRA staff (including internal services) was ~ 55,000 – *recent cuts of reported 7,000 employees* ... possible reduction to ~47,000 by 2027-28 ...
- Core tax responsibility: Actual spending for tax: \$5,025,663,618
  - The 2026–27 projection reflects a reduction of ~\$330 million. This represents a ~6.1% decrease in spending on core tax responsibilities

#### Branches

- Appeals
- Assessment, Benefit, and Service
- Audit, Evaluation, and Risk
- Collections and Verification
- Compliance Programs
- Digital Transformation Program
- Finance and Administration

- Human Resources
- Information Technology
- Legal Services
- Legislative Policy and Regulatory Affairs
- Public Affairs
- Security
- Service, Innovation and Integration

#### Regions

- Atlantic
- Ontario
- Quebec
- Western

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## Current audit and objection environment

### A few 2023-2024 statistics ...

- **Audits completed:** The CRA conducted 68,900 audits in 2023–2024, which generated a total fiscal impact of \$15.3 billion
- **Aggressive tax planning:** The agency increased its audits targeting tax shelter promoters and their clients, completing over 850 audits and generating \$101 million in fiscal impact
- **Increased volume:** For the 2023–2024 fiscal year, the CRA reported a substantial increase in requests for redress. Objections increased by 35% to 87,543
- Taxpayer relief requests grew by 5% to 94,180
- **Processing times and service standards:** The CRA did not meet its service standards for objections in 2023–2024.
  - **Income Tax (Medium Complexity):** The average processing time was 289 days, and the service standard was met 69% of the time
  - **GST/HST (Medium Complexity):** The average processing time was 257 days, and the service standard was met 69% of the time
- **Taxpayers' Ombudsperson:** The Office of the Taxpayers' Ombudsperson noted that issues with call centres, delays in return processing, and aggressive collection actions were among the top taxpayer complaints
- **G&M:** “Conservative bill would require government to disclose corporate debt writeoffs over \$1-million” (Sept 25, 2025)
  - Federal tax debt writeoffs and forgiveness jumped to more than \$18-billion in 2023-24, up from \$5.7-billion

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## Current post-enforcement environment

### Statistics from the Tax Court of Canada

- Approximately 10,000 ongoing appeals
- 55% general procedures vs. 45% informal (80% non-represented litigants)
- 80% income tax vs. 18% indirect tax vs. 2% others
- 45% located in the Toronto region vs. 13% in Montreal and Quebec areas
- Significant increase in settlements prior to hearing
- TCC has now 27 judges – full after 7 new judges were appointed in the last year
  - Longer to obtain a Court date in Quebec because of the language issue – new judges should help with the backlog
  - TCC looking to set 3 days hearing in end 2028

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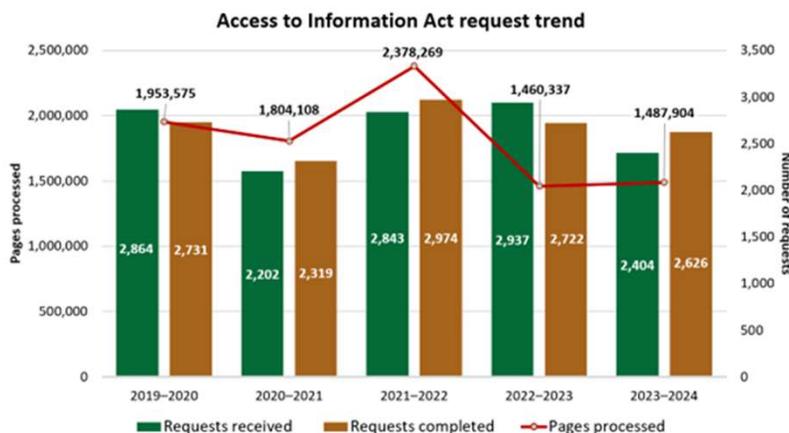
# Access to Information and Privacy Directorate

- Directorate helps the CRA meet its requirements under the *Access to Information Act* and the *Privacy Act*
- Directorate employees are mainly located in Ottawa, Montréal, and Vancouver
  - In the 2023–2024 fiscal year, an equivalent of 233 full-time employees and 12 consultants administered the Access to Information Act and the Privacy Act at the CRA
- The ATIP Directorate processes one of the largest volumes of requests and pages of any federal institution. According to the latest statistics from the Treasury Board of Canada Secretariat, in 2022–2023 the CRA:
  - processed the second largest volume of pages of any federal institution that responds to Access to Information Act requests closed the fourth largest number of requests
  - The number of requests the CRA received under the Access to Information Act in 2023–2024 (2,404) was 18% lower than in 2022–2023 (2,937)
  - The CRA completed 4% fewer Access to Information Act requests (2,626) than in 2022–2023 (2,722). This decrease can likely be attributed to the attention directed to processing the backlog and responding to complaints received by the Office of the Information Commissioner of Canada
- Reduced the average age of late files from 429 days late to 265 days late

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# ATIP Trends



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# Recent developments – *Legislation*

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## Recent developments – Legislation

### Enhanced Audit Powers

- Federal Budget proposals (April 16, 2024) vs. August draft legislation (few substantive changes)
- New draft legislation substantially similar
  - Notice of non-compliance – *new section 231.9 ITA*
    - the penalty will not apply “if one of the reasons for the person not complying with the requirement was the person’s reasonable belief that the information, documents or answers were protected from disclosure by solicitor-client privilege”
  - Oath/affirmation of answers during audit – *new section 231.41 ITA*
  - Compliance order penalties – *amendments to section 231.7 ITA*
    - now provides that the penalty is “up to” 10% of the aggregate amount of tax payable by the taxpayer under this Act for each taxation year of the taxpayer in respect of which the order relates
      - Added discretionary power: If a taxpayer objects to an assessment of a compliance order penalty the Minister is now required to vacate or vary the assessment if the Minister determines that the penalty is, in the circumstances, disproportionate or unfair and may reduce the amount of the penalty or provide any other relief the Minister deems appropriate
      - Penalty will not apply if:
        - Same solicitor-client privilege caveat
        - the amount of tax payable by the taxpayer under this Act for each taxation year in respect of which the order under subsection (1) relates is less than \$50,000
  - Changes to normal reassessment period – *amendments to section 231.8 ITA*

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## Recent developments – Legislation

- November 4 – New budget
  - Following its presentation in the House of Commons, the 2025 budget will be available at the following address: [canada.ca/budget](https://canada.ca/budget)
- Tiff Macklem, Bank of Canada, “Time to roll up our sleeves” (Sept 23, 2025)
- RBC, “Canada’s Growth Challenge: Why the economy is stuck in neutral” (June 4, 2024)

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Recent  
developments –  
*Voluntary  
Disclosure  
Program*

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## Recent developments – VDP

- Phase 1 – 1970s to 2007
  - Information Circular 70-9 (tax evasion)
  - Information Circular 85-1 – May 8, 1987
  - Information Circular 85-1R
  - Information Circular 85-1R2
  - Information Circular IC00-1 – June 12, 2000
  - Information Circular IC-00-1R – September 30, 2002
- Phase 2 – 2007 to 2018
  - Information Circular IC00-1R2 – October 22, 2007
  - Information Circular IC00-1R3 – March 21, 2013
  - Information Circular IC00-1R4 – March 21, 2014
  - Information Circular IC00-1R5 – January 2017
- Phase 3 – 2018 to 2025
  - Information Circular IC00-1R6 – December 15, 2017
- Subsection 220(3.1) - 1991
- Statistics
  - 1992 - \$47M CAD
  - 1996 – 888 disclosures, \$26.8M CAD
  - 2001 – 2,500 disclosures
  - 2004 – 6,500 disclosures, \$459M CAD
  - 2011 – 12,811 disclosures
  - 2015 – 19,134 disclosures, \$1.3B CAD income
  - 2017 – 18,191 disclosures

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## Recent developments – VDP

- OECD, “Engaging with High Net Worth individuals on Tax Compliance” (2009)
- Offshore Tax Informant Program (January 2014)
- Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (Common Reporting Standard) (June 2, 2015)
- Offshore Compliance Advisory Committee (2016)
- Joint Chiefs of Global Tax Enforcement (2018)
- Panama Papers (2016)
- Paradise Papers (2017)
- Pandora Papers (2021)
  - Phase 3 ... 2018

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## Recent developments – VDP

- Results:
  - 2018 – 12,042 disclosures (... down 34%)
  - Panama Papers –
    - 265 audits, \$75M CAD add'l tax (2022)
    - 310 audits, \$83M CAD add'l tax (2025)
  - Paradise Papers –
    - 106 audits, \$1.6M CAD add'l tax

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## Recent developments – VDP

- Phase 4 ...
- Information Circular IC00-1R7
- September 10, 2025 ... applies to applications made on or after October 1, 2025
- Two streams:
  - Unprompted – no communication from the CRA or only general CRA communication
  - Prompted – verbal or written communication from the CRA and
    - Specific error / omission found on taxpayer's account
    - Deadline to correct, or
    - CRA already has information from another source
- Relief:
  - Unprompted - Up to 75% of applicable interest, 100% of penalties
  - Prompted – Up to 25% of applicable interest, 100% of penalties

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## Recent developments – VDP

- Years
  - Domestic – most recent 6 years
  - International – most recent 10 years
- Form RC199
  - Mandatory
- Observations
  - Greater scope for relief (cyclical evolution of the program ...?)
  - Wait to October 1?
  - “No-name” disclosure still not available ...
  - Economic efficiency ...
  - Current CRA focus ...

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Recent  
developments –  
*Case Law*

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## Recent Developments – Case Law

### Key tax litigation trends from recent jurisprudence

#### Pleadings

- *Chevron Canada Limited v. His Majesty the King*, 2025 TCC 80

#### Settlements & Privilege

- *Scott Laprairie v. His Majesty The King*, 2024 TCC 149
- *Stack v His Majesty the King*, 2024 TCC 137

#### Motions

- *Caroni v. The King*, 2025 TCC 101 – Non-suit motion, onus, sufficiency of evidence?
- *Harika v. His Majesty The King*, 2025 TCC 81– Filing position or misrep? Strike Reply?

#### Rectification

- *Pyxis Real Estate Equities Inc. v. Attorney General of Canada*, 2025 ONCA 65
- *Bosa Family Trust v. Canada*, 2025 BCSC 1284 –Prov v TCC jurisdiction?

#### GST

- *Canadian Imperial Bank of Commerce v. His Majesty The King*, 2024 TCC 160
- *Medsleep Inc. v. His Majesty The King*, 2025 TCC 70
- *Northbridge Commercial Insurance Corporation v. His Majesty The King*, 2025 FCA 83

#### Judicial Review

- *Bank of America v Canada*, 2025 FCA 9
- *Créations Guimel Inc. v. Minister of National Revenue*, 2025 FC 814
- *3533158 Canada Inc. v. Canada*, 2024 FC 1090
- *Minister of National Revenue v. Shopify Inc.*, 2025 FC 969 – UPR for foreign enforcement?

#### Section 160

- *Harvard Properties Inc. v. His Majesty The King*, 2024 TCC 139

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## Recent Developments – Case Law

### Key tax litigation trends from recent jurisprudence

#### Leveraged Donations

- *Toews v. His Majesty The King*, 2025 TCC 123 – Tax shelter – proof of penalty?

#### Existence of Business

- *Sennaikie v. The King*, 2025 TCC 122 – Personal improvement / business element?

#### Evidence

- *Kruyff v. His Majesty The King*, 2025 TCC 116 – Evidence of google maps (time of day travel?)
- *Uppal v. His Majesty The King*, 2025 TCC 103 – Inference from absence of evidence? (HBP)

#### Deductions

- *Bank of Montreal v. His Majesty The King*, 2025 TCC 113 – Deduction for additional tax arrears interest

#### GAAR

- *Total Energy Services Inc. v. His Majesty The King*, 2025 FCA 77 – Loss trading
- *Madison Pacific Properties Inc. v. His Majesty The King*, 2025 FCA 20 – Loss trading
- *Oldcastle Building Products v. His Majesty The King*, 2025 TCC 107 –PUC reduction (procedural)
- *D’Arcy v. His Majesty The King*, 2025 TCC 128 – PUC reduction

#### Connected / Dividends

- *Canada v. Vefghi Holding Corp.*, 2025 FCA 143 – When two corp’s are connected?

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## Selected cases of interest



- ***Chevron Canada Limited v. His Majesty the King*, 2025 TCC 80**
  - The TCC struck CRA internal deliberations from the pleadings as irrelevant
- ***Oldcastle Building Products v. His Majesty the King*, 2016 TCC 183**
  - The TCC confirmed that the Crown may plead thin capitalization as an alternative basis alongside paragraph 20(1)(c) to defend an interest denial
- ***Minister of National Revenue v. Shopify Inc.*, 2025 FC 969**
  - The FC denied a UPR authorization because the target group was not ascertainable and the compliance burden was disproportionate
- ***Bank of Nova Scotia v. Canada*, 2024 FCA 192, leave granted 22 May 2025**
  - How arrears interest should be calculated when a reassessment includes both an audit adjustment and a loss carryback
- ***D'Arcy v. His Majesty the King*, 2025 TCC 128**
  - The TCC applied the GAAR to same-class PUC averaging that funded returns of capital without any new capital

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## *Chevron Canada Limited v. His Majesty the King*, 2025 TCC 80

### Key Facts

- The Crown relied on Rule 53(1)(a)–(d) to support the motion to strike
- Chevron argued that the paragraphs were relevant to discovery and that CRA determinations had persuasive value for the trial judge. These paragraphs described:
  - A referral from Appeals to Audit
  - Audit's conclusions on feasibility and representation expenses
  - Audit's recommendation to reassess
  - Appeals' decision not to accept that recommendation
- Issue: The issue before the Court was whether CRA internal views are relevant to correctness and validity and whether such allegations should be struck to avoid collateral discovery disputes

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## ▼ *Chevron Canada Limited v. His Majesty the King*, 2025 TCC 80

### Holding/Reason:

- The Court granted the motion and struck paragraphs 51–54. The Court held that internal mental processes and interim opinions are irrelevant to correctness and validity (*Hawkes; Riendeau; Zhou*), and that including them would prejudice and delay the appeal by spawning collateral disputes

### Practical Takeaways:

- Limits on discovery into CRA deliberations?
- Extension of what constitutes the CRA's mental process?
- Used now as an important precedent by the DOJ

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## ▼ *Oldcastle Building Products v. His Majesty the King*, 2025 TCC 107

Multiple reassessments (GAAR) ...

- **Part XIII Assessment:** \$15M withholding tax for a 2012 return of capital to a non-resident
- **GAAR Determination:** Adjusted paid-up capital (PUC) to nil
- **Part I Reassessments:** Disallowed interest deductions for 2012–2014 related to a \$300M borrowing
- The Minister originally disallowed interest under **paragraph 20(1)(c)**, arguing the borrowed funds were not used for income-earning purposes. Later, the Crown sought to amend its pleadings to add the **thin capitalization rules (subsections 18(4) and (5))** as an **alternative basis** for disallowing the same interest

**Issue** - Whether the Crown could amend its pleadings under **subsection 152(9)** to add a new legal basis (thin capitalization) without increasing the assessed amount?

### Tax Court:

- The Court **allowed the amendment**, finding it was a **permissible alternative basis** under the **2016 version of subsection 152(9)**
  - s. 152(9) permits alternative basis/argument; same borrowing/interest transaction; no non-compensable prejudice

### Key Takeaways

- **Subsection 152(9)** permits the Crown to raise **new legal theories** post-assessment, even if they involve different sources or provisions, as long as the **assessed amount doesn't increase**
- Taxpayers should anticipate **alternative arguments** and prepare discovery and expert evidence accordingly
- The decision confirms a **broad interpretation** of the Minister's rights under subsection 152(9), post-2016 amendments

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## ▼ *Minister of National Revenue v. Shopify Inc.*, 2025 FC 969

- **Background:** CRA sought court authorization to issue an Unnamed Persons Requirement (UPR) to Shopify
- **Legal Framework:** UPRs under s. 231.2(3) of the Income Tax Act require an 'ascertainable group' and a compliance verification purpose
- **Minister's Position:** Targeted Canadian-resident merchants using Shopify to sell goods/services; claimed group was ascertainable and request was for compliance verification
- **Shopify's Position:** Group definition was vague and inconsistent; request included data Shopify did not hold or had purged; burden of compliance was disproportionate

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## ▼ *Minister of National Revenue v. Shopify Inc.*, 2025 FC 969

- **CRA Requested:** Store trading name, legal name, contact info, email, URL, VAT number, billing/accounting data, sales/transaction details, and Shopify Payments relationships
- **Court's Findings:** Group was not ascertainable due to inconsistent definitions and vague scope (e.g., 'Shopify Owner' vs 'Merchant'); compliance purpose undermined by ambiguity
  - CRA failed to meet threshold under s.231.2(3)(a)
- **Practical Implications:** CRA must tailor UPRs to platform data models; pre-filing consultation recommended; platforms should document data retention and feasibility early

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## ▼ *Bank of Nova Scotia v. Canada*, 2024 FCA 192

### **Background and Legal Issue**

- In 2015, CRA reassessed BNS's 2006 tax year, adding \$55M income via transfer pricing adjustment
- BNS requested a \$54M loss carryback from 2008 to offset the adjustment
- CRA imposed \$7.93M arrears interest, calculated as if the carryback did not apply immediately
- Legal issue: When should the loss carryback be recognized for interest calculation under ITA s.161(7)?

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## ▼ *Bank of Nova Scotia v. Canada*, 2024 FCA 192

### **Federal Court of Appeal**

- The Court upheld TCC decision: carryback ignored until 30 days after BNS's written request in 2015
- Applied subparagraph 161(7)(b)(iv) of the ITA
- Interest calculated on full \$55M adjustment for that period, despite offsetting loss
- Reasoning: Parliament intended this result to avoid anomalies in reassessment timing

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## ▼ *Bank of Nova Scotia v. Canada*, 2024 FCA 192

### Key Takeaways

- File loss carryback requests promptly, especially in audit contexts
- Model interest exposure early to avoid unexpected liabilities
- Understand that interest may accrue on notional tax even if no net tax is payable
- Supreme Court has granted leave to appeal (May 2025)
  - National importance?

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## ▼ *D'Arcy v. His Majesty the King*, 2025 TCC 128

### Case Overview

D'Arcy spouses appealed tax reassessments under GAAR concerning 2013 and 2014 taxation years involving complex transactions.

### Transaction Mechanics

Transactions used section 85 rollovers and LCGE to transfer shares and receive preferred shares with reduced paid-up capital.

### PUC Averaging and Loan Credit

PUC averaging reallocated over \$900K to shareholders, enabling crediting of shareholder loans, extracting surplus tax-free.

### Legal Admission and Tax Avoidance

Appellants admitted transactions formed a series, resulted in tax benefits, and constituted avoidance under Income Tax Act.

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## ▼ *D'Arcy v. His Majesty the King*, 2025 TCC 128

### **GAAR Three-Step Test**

The Court applied GAAR's framework: tax benefit, avoidance transaction, and abuse determination.

### **Frustration of Legislative Purpose**

Transactions frustrated the object, spirit, and purpose of tax provisions to enable tax-free surplus extraction.

### **Use of Same-Class Shares**

Same-class shares circumvented PUC rules and artificially inflated PUC through averaging methods.

### **Rejection of Creditor-Proofing Argument**

Court ruled stated creditor-proofing purpose does not override abusive avoidance transactions.

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## ▼ *D'Arcy v. His Majesty the King*, 2025 TCC 128

### **Court's GAAR Decision**

The Tax Court ruled transactions abusive under GAAR, upholding reassessments and denying appeals with costs to the Crown.

### **PUC Averaging Recharacterization**

The Court disregarded subsection 89(1) PUC averaging, treating PUC reductions as deemed dividends under subsection 84(4).

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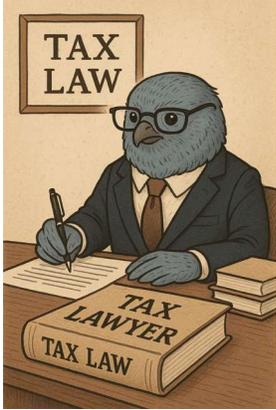
# AI in Tax Disputes

## AI in Tax Disputes

2024



2025



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## AI in Tax Disputes

- McKinsey, “The state of AI: How organizations are rewiring to capture value” (March 12, 2025)
- StatsCan, “Analysis on expected use of artificial intelligence by businesses in Canada, third quarter of 2025” (Sept 11, 2025)
- WSJ, “OpenAI Unveils Plans for Seemingly Limitless Expansion of Computing Power” (Sept 23, 2025)
  - ChatGPT – 700 million users / weekly
- CNBC, “AI can now pass the hardest level of the CFA exam in a matter of minutes” (Sept 24, 2025)

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## AI in Tax Disputes

- Inter-American Center of Tax Administrators, “Artificial Intelligence Agents: A New Frontier of Smart Tax Management?” (June 14, 2025)

“AI agents are not a distant futuristic vision; they are a tangible reality with the power to profoundly transform tax management. Its adoption represents a historic opportunity to build more efficient, effective, fair, and citizen-oriented TAs.

However, the path to this transformation must be traveled with a strategic vision, an ethical commitment and a deep understanding of both the benefits and the risks. It is crucial to foster a balanced approach that seeks to maximize the potential of AI while actively mitigating its potential adverse effects.”

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## AI in Tax Disputes

- International Monetary Fund, “How AI Can Help Both Tax Collectors and Taxpayers” (Feb 25, 2025)
  - “By providing human-like capabilities to support taxpayers and tax authorities, GenAI can act as both taxman and taxpayer assistant, automating routine tasks, clarifying complex issues, and fostering a more transparent and collaborative relationship. This technology can lower administrative hurdles, demystify tax obligations, and invite broader participation in policy debates. However, shaping it properly requires strong leadership, ethical policy frameworks, and vigilant oversight of data quality, privacy, and accuracy.”
- [www.taxadmin.ai](http://www.taxadmin.ai) – “Our Country Reports compile the state of use of tax machine-learning algorithms in each EU Member States, the functions performed by these algorithms, the data used by tax administrations for the development and use of these algorithms, and whether these algorithms are regulated by specific legal norms.”

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## AI in Tax Disputes

- OECD, “Governing with Artificial Intelligence: The State of Play and Way Forward on Core Government Functions” (2025)

Figure 5.1. AI deployments across OECD Members who use AI in tax administration



Note: 29 of the 38 OECD members report using AI in tax administration in the 2024 Inventory of Tax Technology Initiatives.  
Source: OECD Data Explorer - Inventory of Tax Technology Initiatives 2024 (<https://oe.cd/dx/ITI2024>).

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## ▼ AI in Tax Disputes

- Examples:
- France – aerial photographs and property reporting
- Brazil – AI / ML – file assignment (clustering)
- Austria – Predictive Analysis Competence Centre (PACC) – fraud detection (decision trees, regression models, text mining)
- Singapore – tax chatbot – queries, authentication, taxpayer inquiries, payments, time reduced by 10 mins per interaction
- Australia – pre-filing service, error detection, prompts

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## ▼ AI in Tax Disputes

- Factors:
  - Ensuring data protection and privacy
  - Ensuring taxpayer rights
  - Maintaining trust
- Risks:
  - Inadequate / skewed data
  - Inadequate / poor data quality (Netherlands – “Toeslagenaffaire”)
  - Transparency, intelligibility, interpretability
- Implementation:
  - Employee skills, investment costs, disrupt existing frameworks

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## AI in Tax Disputes – Canada

- CRA “2025–26 Departmental Plan” (June 2025)
- “The CRA is enhancing its use of technology, including machine learning and artificial intelligence (AI), to detect non-compliance and other suspicious activities allowing for early detection, prevention, and verification measures, and when appropriate, criminal investigations.”
- “Innovation”:
  - Using a generative AI-powered chatbot, the CRA will pilot a public-facing chatbot capable of handling non-account-specific enquiries, delivering accurate and timely information to clients, sourced from CRA’s Canada.ca web pages, reducing pressure on contact centres.
  - The Genni initiative is an internal CRA generative AI tool aimed to provide employees with access to secure generative AI to explore and determine its value in improving operational efficiency, while ensuring the appropriate oversight and safeguards are in place.
  - The Quantum 2.0 solution will use cloud-based infrastructure, abnormal pattern analysis, and AI to improve the CRA’s capacity to recognize and prevent fraudulent payments, refunds, and rebates.

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## AI in tax audits – Guardrails?

- Canada, *Artificial Intelligence and Data Act* – future ...?
  - “AIDA sought to establish a risk-based regulatory framework; however, it was criticized for its lack of specificity, underinclusiveness, and absence of sector-specific oversight ...” – Ishaque, “Lessons from the Failure of Canada’s Artificial Intelligence and Data Act”, NEJM AI 2(7) (June 2025)
- “Navigating the AI Revolution: Key Updates for Today’s CPA”
  - CPA Canada & AICPA, 2024
- “Trust in New Frontiers: Putting AI Governance into Practice”
  - CPA Ontario, 2024
- CPA.com, “2025 AI in Accounting Report”

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# AI in Tax Disputes – Canada

## Artificial intelligence

Start by reviewing the Law Society of Ontario's guidance on this topic:

- [Licensee use of generative artificial intelligence](#) (White paper)
- [Generative AI: Your professional obligations](#) (Practice note)
- [Generative AI: Your quick-start checklist](#) (Checklist)
- [Building a generative AI policy: A checklist of key questions](#) (Checklist)
- [8 best practice tips for using generative AI](#) (Tool)

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# AI in Tax Disputes – Courts

- Damian Charlotin, “AI Hallucination Cases” (courts, tribunals)
  - 382 cases
  - 27 in Canada
- *Zhang v Chen* (2024 BCSC 285)
  - “[46] As this case has unfortunately made clear, generative AI is still no substitute for the professional expertise that the justice system requires of lawyers. Competence in the selection and use of any technology tools, including those powered by AI, is critical. The integrity of the justice system requires no less.”

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## ▼ AI in Tax Disputes – Courts

- Canadian Judicial Council, “Guidelines for the Use of Artificial Intelligence in Canadian Courts” (Sept 2024)
- Action Committee on Modernizing Court Operations, “Demystifying Artificial Intelligence in Court Processes” (Nov 2024)
- Federal Court, “The Use of Artificial Intelligence in Court Proceedings” (May 7, 2024)
- Ontario Rules of Civil Procedure –
  - s. 4.06.1(2.1), (2.2) (factums);
  - s. 53.03(2.1)[6.1, 6.2] (expert reports)

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## ▼ AI in Tax Disputes

- Use cases ... ?
- WSJ, “How to Make Sure ChatGPT Doesn’t Make You Dumber” (Sept 3, 2025)
- Gerlich, Michael, “AI Tools in Society: Impacts on Cognitive Offloading and the Future of Critical Thinking”, *Societies* 15:6 (January 03, 2025)
  - “The findings revealed a significant negative correlation between frequent AI tool usage and critical thinking abilities, mediated by increased cognitive offloading.”

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# Best practices for tax dispute management

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## Best practices for tax dispute management

### During the audit

- Resource allocation
  - Internal? External?
- Be responsive, communicate – ask for meeting to understand where the audit is going!
  - Provide well-organized documentation and summaries!
- Establish rapport with audit team, build trust – request extensions in advance; ensure supervisor is involved
- Audit scope – initial ... ongoing
- Protect your position – with the new audit powers, ensure that you involve external advisors to mitigate risk of non-compliance
  - CRA has already been sending letters implying they are ready to issue Notices of non-compliance and oral interviews

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## ▼ Audit Activities

- Audit trends include:
  - “Aggressive” tax planning – GAAR, SAAR
  - Stronger focus on small and medium-sized businesses
    - Audits of economic entities
  - International tax – transfer pricing, withholding tax, share valuation, T1134/T1135
  - SR&ED
  - Employer contributions and deductions at source
  - GST/HST/QST – ecommerce, financial services, real estate (self-assessment, co-ventures, partnership structures, requests for tax paid in error)
- Court hearing trends include:
  - Increase in interlocutory motions
  - Increase in enhanced costs
  - GAAR, GST, JRs

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## ▼ Unusual Audit Activities

- Increasing GAAR targeted audits – *the QRA is considering the possibility of applying GAAR and its penalty....* Yet the draft reassessment was issued
- Increase draft reassessments for statute-barred years with penalties for “sophisticated” taxpayers
  - Used as a negotiation token? CRA confirmed that Appeals agent should not use the penalty as a means to “settle” a file
- Auditors less likely to accept extension of time
  - CRA policy is maximum 30 days with a discretion to extend another 30 days
- Increase collection activities

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## Q&A



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## Survey and CPD QR Codes

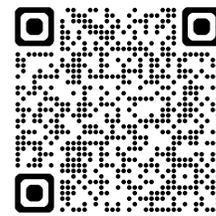
Survey – It only takes a minute!



**Law Society of British Columbia**

The session has been loaded with the LSBC and is titled “Managing Tax Disputes: Fall Update on Recent Developments and Trends - September 25, 2025”.

Ontario and/or Quebec CPD Certificate



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### Areas of Expertise

Tax Law | Corporate/Commercial | Commodity VAT & Tax | Tax Litigation and Dispute Resolution | Cross-Border & International Tax | Executive Compensation | Litigation and Dispute Resolution | Technology, Media and Telecommunications | Charities and Non-Profit Law | Real Estate | Energy and Climate | Financial Services | Canada

### Education

2005, LLB, Osgoode Hall Law School at York University

2001, MA, Journalism, New York University

1999, BA, English, McGill University

### Accreditations

Certificate in Technical Analysis, Canadian Securities Institute

In-Depth GST/HST, Chartered Professional Accountants of Canada (CPA Canada)

In-Depth Income Tax Levels I, II & III, Chartered Professional Accountants of Canada (CPA Canada)

Certificate in Canadian Securities Law and Practice, Osgoode Professional Development

Derivatives Fundamentals Course, Canadian Securities Institute

Intensive Trial Advocacy Workshop, Osgoode Professional Development

Canadian Securities Course, Canadian Securities Institute

### Jurisdiction

Ontario, 2006

### Language

English

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A partner in Fasken's Toronto office, Timothy Fitzsimmons brings extensive experience in Canadian and international income tax and commodity tax, with areas of focus in audit defence, objections, litigation, appeals and dispute resolution. His practice supports a variety of industries including financial services, cryptocurrency, real estate, aviation, natural resources, transportation, health care, communications and manufacturing.

Timothy helps clients identify and manage domestic and global tax risk in M&A transactions and during the tax compliance cycle. This may include pre-filing reviews, coordination with tax staff/accountants, proactive reporting and disclosure, and audit management.

If a matter proceeds to litigation, Timothy has represented clients before the Ontario Superior Court of Justice, Tax Court, Federal Court, and Federal Court of Appeal. This work has been recognized by *Lexpert*, which named him as a Leading Litigation Lawyer in Canada and Consistently Recommended for Tax Litigation. Additionally, Timothy has been noted as a Global Tax Controversy Leader by *International Tax Review*.

Timothy shares his insight as a regular contributor and speaker on corporate and tax issues. Specifically, his writing has been featured in the *Canadian Tax Journal*, *Tax Topics*, *Tax Litigation Journal*, *Tax Notes International*, *CA Magazine*. He is also an Editorial Advisor to *Canadian Tax Focus*.

## Rankings and Awards

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- *The Best Lawyers in Canada* 2025 Recognized in Tax Law in Toronto
- *The International Tax Review* 2024-2025 Recognized nationwide in Canada in the “Highly Regarded” category in Tax Controversy
- *Canadian Legal Lexpert Directory* 2024-2025 Recognized in the Canadian Legal Lexpert Directory as Consistently Recommended in Litigation - Corporate Tax

## Memberships and Affiliations

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- Member, Canadian Bar Association
- Member, Canadian Bar Association
- Member, Ontario Bar Association



## Marie-Claude Marcil, M Fisc

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### Areas of Expertise

Tax Litigation and Dispute Resolution | Tax Law | Project Financing | Insurance | Real Estate | Private Client Services | Construction Law | Canada

### Education

2011, M Fisc, HEC Montreal

2007, BCL / LLB, McGill University

### Jurisdiction

Québec, 2008

### Languages

French | English

Marie-Claude Marcil is a partner in the Tax group of the Montréal office. With over 15 years of experience in tax litigation and dispute resolution, clients turn to her extensive experience in cases involving specific and general anti-avoidance rules, transfer pricing, acquisitions of control, deductibility of business expenses, employer payroll taxes, taxation of financial institutions, imposition of penalties, and scientific research and experimental development (SR&ED).

She also has significant experience in tax compliance matters, including audits conducted by the Canada Revenue Agency and Revenu Québec as well as the subsequent administrative objection process.

Marie-Claude spent many years working for a global accounting firm, assisting a diverse clientele of individuals and corporations on matters ranging from federal and provincial income tax to consumption taxes. A seasoned litigator, she has represented major clients before the Court of Québec, the Federal Court, the Tax Court of Canada and the Federal Court of Appeal. She regularly provides legal opinions commensurate with her expertise in tax law.

Marie-Claude has extensive knowledge of her industry, has written a variety of articles and has been invited to speak to her peers at numerous provincial and national conferences. A member of the Bar since 2008, she holds a graduate diploma in taxation from HEC Montréal, and serves as chair of the tax litigation practice group for The Advocates' Society, in addition to being a member of the tax litigation subcommittee of the Canadian Tax Foundation. Finally, she ensures a strong mentorship role and is actively involved with the region's young tax

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professional community. Her numerous professional commitments and her keen knowledge of the tax world make her an exceptional business advisor.

## Rankings and Awards

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- *The Best Lawyers in Canada 2025* Recognized in Tax Law in Montréal
- *Lexpert 2024-2025* Recognized by the Canadian Legal Lexpert Directory in Litigation - Corporate Tax

## Memberships and Affiliations

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- Chairwoman | Advocates Society - Tax Litigation Practice Group (since 2023)
- Member of the Strategy committee of the Association de planification fiscale et financière (APFF) (since 2017)
- Member of the Canadian Tax Foundation (CTF) (since 2011)

Fasken is a leading international law firm with more than 950 lawyers and 10 offices on three continents. Clients rely on us for practical and innovative legal services.

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