

# Breaking Down the Barriers to Legislative Tax Compliance: A Question of Service

*By Sherri Profit, Taxpayers' Ombudsman for Canada*

Canada's tax system is based on the principle of self-assessment and voluntary compliance. The Canada Revenue Agency (CRA) administers the rules and regulations governing collecting, reporting and filing payroll taxes. Payroll professionals play a central role in ensuring organizations have the required tools and information to fulfill their obligations as taxpayers. The CRA also has obligations to those it serves, including ensuring it respects taxpayer rights, as articulated in the Taxpayer Bill of Rights.

As Canada's Taxpayers' Ombudsman, my mandate is to assist, advise and inform the Minister of National Revenue on matters relating to services provided to a taxpayer by the CRA. My Office, the Office of the Taxpayers' Ombudsman (OTO), is responsible for upholding the service rights of taxpayers and benefit recipients, when dealing with the CRA. We work to address service issues on a systemic basis; and we take complaints about individual issues, examine the issues, and work with the taxpayer and the CRA to resolve them.





## Taxpayer Bill of Rights

The OTO defines a taxpayer as anybody who has interactions with the CRA. Therefore, a taxpayer can be an individual person, business or corporation, charity, trust, estate, or person who pays taxes or person who is exempt from taxes and their representative.

The Taxpayer Bill of Rights has 16 rights describing the treatment taxpayers are entitled to when dealing with the CRA. It also sets out the CRA's Commitment to Small Business. As the Taxpayers' Ombudsman, I am specifically mandated to uphold rights 5, 6, 9, 10, 11, 13, 14 and 15.

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 [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 [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 [the CRA] to publish our service standards and report annually.**
14. **You have the right to expect [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.

## Navigating Compliance

Navigating and complying with the complex tax system can be confusing for individuals and organizations. The ability to comply with tax obligations is dependent upon understanding them. In its administration of the tax system, the CRA has a duty to ensure the information it provides to taxpayers is complete, accurate, clear and delivered in a timely manner to ease the burden and allow taxpayers to comply and confidently self-report.

It is not sufficient for the CRA to provide information that can be understood; it must provide information that cannot be misunderstood. Moreover, in accordance with the Taxpayer Bill of Rights, the CRA must take into account the costs of compliance.

One reason that organizations call the CRA's business enquiries line is due to payment misallocation, such as the CRA allocating a GST/HST instalment to an organization's payroll account. This mistake has real costs for organizations, resulting in the need for increased resources and effort to identify and correct the error.

Through a previous systemic examination, my Office found the root causes of payment misallocation can be attributed to both CRA's processing system and human error. The CRA has since expanded the ways taxpayers can make payments. However, we continue to receive and resolve complaints from taxpayers who have had their payments applied to the incorrect account, and must devote time and resources to correcting the error.

In my latest report, *Fair Warning*, I look at service issues related to legal warnings issued by the CRA during the debt collection process.<sup>1</sup> The examination covered the CRA's debt collection policies, processes and procedures with regard to providing legal warning, how and when the CRA communicates a legal warning to taxpayers, what other information is available to taxpayers, and the taxpayer experience in their debt collection dealings with the CRA. We found a lack of clarity in the information provided by the CRA around the debt collection process, including what the CRA considers a binding payment arrangement and the consequences of not adhering to one.

<sup>1</sup><https://www.canada.ca/en/taxpayers-ombudsman/programs/reports-publications/special-reports/fair-warning.html>



Based on our findings, I made nine recommendations—the most of any of my previous reports, which speaks to the importance of this issue and the consequences. The recommendations highlight the need for a fair and equitable taxpayer experience through clarity and consistency of the information available, and greater transparency in communicating consequences.

## Accessible Compliance Mechanisms

Given that our tax system is dependent on self-assessment, and trust that the system is fair, it is important for tax legislation to be administered in a way that not only encourages compliance but also respects the Taxpayer Bill of Rights. This means that appropriate mechanisms must be in place to facilitate and, where required, provide assistance in the process of self-reporting. The process must be transparent, accessible and clear.

Canadians expect the CRA to keep pace with technological advances to facilitate simple and accessible interactions. The CRA should apply the additional funding outlined in Budget 2019 to improve information technology systems in a way that enhances operations and breaks down existing internal barriers. As systems evolve, it should be easier for individuals to fulfill their responsibilities by increasing access to the CRA through digital means. The CRA must balance the time, effort and costs taxpayers incur on compliance activities with its "duty to protect Canada's tax base by ensuring the highest possible level of tax compliance."<sup>2</sup>

The CRA has been consulting with small and medium businesses on where and how it can improve its service interactions. More consultation is needed, with a wider array of stakeholders and users of the system.

By collaborating with organizations, community support groups and individuals to develop tools and services that increase access to information, there is greater likelihood that changes made will be user centric and in line with what taxpayers are actually looking for to improve their experience and help them comply with tax obligations. Taking into account the actual needs of those served by the CRA also increases trust in the system, increasing the likelihood of voluntary compliance.

## Leaving No Organization Behind

As we move to a more digital approach to government services, we cannot forget that not all organizations have the same level of access. It is important that small businesses and those in rural and remote communities, which may have intermittent or no internet access, are still able to receive the same level of service from the CRA.

The CRA has a five-point commitment to small businesses in this regard:

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.

Through outreach initiatives across Canada, and complaints sent to us, we often hear about difficulty accessing CRA agents, delays in processing times and other service-related issues, which are compounded when there is no, or unreliable, internet access.

When faced with these and other challenges, or when working to serve your organizations so they can meet their tax obligations, I hope you now have a better understanding of taxpayer rights as articulated in the Taxpayer Bill of Rights, and the role of the Office of the Taxpayers' Ombudsman in resolving service issues and holding the CRA accountable. Visit <https://www.canada.ca/en/taxpayers-ombudsman.html> to find out more. ■



Members of my team will host a booth at the upcoming Payroll Rocks conference and will be happy to provide additional information and discuss any general or specific questions you may have.



Sherra Profith has been the Taxpayers' Ombudsman for Canada since 2015. Prior to joining the Office of the Taxpayers' Ombudsman, she practiced law in Prince Edward Island for over 15 years. Over this period of practice, she obtained training and gained valuable experience in a variety of legal disciplines, augmented by her extensive volunteer experience and community involvement.

<sup>2</sup><https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc17/taxpayer-bill-rights-guide-understanding-your-rights-a-taxpayer.html>