

# The Tax Court of Canada

*Ubi Jus, Ibi Remedium* (“Where there is a right, there is a remedy”)

## Tax Appeals — Part of the Federal Court System

The Tax Court was created in 1983, replacing the Tax Review Board, under Section 3 of the *Tax Court of Canada Act* — the primary legislation establishing and governing this court. It is now an independent specialized “court,” and not a government-type “review board”.

Most Canadians will be forgiven for thinking that they do not have many rights and remedies when it comes to tax law. The Tax Court of Canada, however, gives taxpayers an opportunity to appeal federal government tax disputes to a superior court judge and have them resolved according to the facts and law. The Tax Court of Canada is the first level of appeal for taxpayers.

The Registry is the point of entry to this court. This Registry assists the judges with processing paperwork on the appeals, scheduling hearings throughout Canada, and giving expert guidance and advice to taxpayers on the practices and procedures of the Court.

The Court is headquartered in Ottawa. Judges travel to and convene in over 60 locations across Canada.

The Court consists of a Chief Justice, an Associate Chief Justice, and about twenty other judges. Deputy judges can be appointed to help with the caseload. These deputies are other current or former Canadian judges from other courts.

The Tax Court of Canada has jurisdiction over tax and revenue matters (Section 12). It has exclusive original jurisdiction to hear appeals and references under

- the *Income Tax Act*,
- the *Employment Insurance Act*,
- Part IX of the *Excise Tax Act* (GST),
- the *Canada Pension Plan*,
- the *Old Age Security Act*,
- the *Petroleum and Gas Revenue Tax Act*, and
- the *Cultural Property Export and Import Act*.

It also has appellate power in the *War Veterans Allowance Act* and the *Civilian War-related Benefits Act*.

## Appealing to the Tax Court of Canada

If, after filing a Notice of Objection with the Canada Revenue Agency (CRA) and after the CRA’s review of your objection, you still dispute the tax bill, you can appeal to the Tax Court of Canada within 90 days from the date of the CRA’s review.

You will normally have to explain why you disagree with the CRA’s decision.

The judge will confirm or modify the tax payable, based on the arguments and evidence, although it is possible to settle the case any time with the CRA. There are two different routes that an appellant taxpayer can take.

## Informal Procedure

An informal procedure (s. 18 and informal procedure rules) can be followed, which is intended to simplify the appeal process. To access the informal procedure, the amount of federal tax and penalties for each taxation year, excluding interest, is limited to \$12,000. If more tax is in dispute, the excess over \$12,000 cannot be subject to the informal appeal. You can use the general procedure even if you qualify for the informal procedure.

Filing the Notice of Appeal (or setting out the appeal in a letter) costs \$100 under the informal procedure, unless the Court waives this fee on the basis that it would cause severe financial hardship to the individual. Anyone can assist you to present your case informally, including an accountant or family member.

The original and two copies of your Notice of Appeal must be sent or taken to an office of the Registry. The Notice of Appeal should include

- your full name and mailing address, telephone number, and fax number (if available),
- if you have a lawyer or representative, his or her full name and contact information,
- the taxation year(s) under appeal or the assessment number,
- the date of the reassessment (attach a copy),
- grounds for appeal,
- a request to use the informal procedure,
- a statement that you are limiting the amount of your appeal to \$12,000 for each year appealed (where applicable),
- the date of the appeal, your signature, and filing fee.

Once the Notice of Appeal has been received by any Registry office, you will receive an acknowledgment. The Court will forward the appeal to the CRA, which will state its position within 60 days. Within the next six months, a hearing will be scheduled. You should assemble witnesses and documents to support your position at the hearing. Within 90 days after the hearing, the judge's decision will be sent to both parties.

## General Procedure

As you would expect, the general procedure is more complicated and court-like. Under it, the only agent who may represent you is a lawyer. Filing fees are higher. They range from \$250 to \$550, depending on the amount of tax at issue in the appeal.

The Court will forward your appeal to Justice Canada, which represents the

CRA. A reply containing the CRA's position comes back within 60 days and you may answer the reply within 30 days. Parties exchange lists of the documents. Examinations for discovery help clarify the issues. Other procedures are available and eventually an oral hearing may be scheduled. The Court wants to keep appeals moving along so time limits may be set.

If you are not happy with the decision of the Tax Court of Canada, you can take it to the Federal Court of Appeal and, with leave, ultimately to the Supreme Court of Canada. Similar procedures apply in the Tax Court for appeals on GST and employment insurance (EI) assessments.

Most of this information was obtained from the Court's website at [www.tcc-cci.gc.ca](http://www.tcc-cci.gc.ca). It is an attractive, easy-to-navigate site that describes in plain language how to reach this court (including toll free numbers) and how to appeal income tax, GST, and EI decisions of the federal government.

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