



## How To Find Out What Is In The Canada Revenue Agency's Files About Your Audit

By Cyndee Todgham Cherniak on December 30th, 2015

Posted in Sales Taxes, Tax



Wouldn't you like to know what is in the Canada Revenue Agency's ("CRA") files concerning your GST/HST audit? This information is very valuable in finding out where the CRA made a mistake or what is the basis for the misunderstanding about your taxes. We recommend obtaining this information as soon as possible after an assessment is issued AND after an appeals officer makes a decision to confirm an assessment. The information in your audit file may help you prepare a notice of objection or notice of appeal. The information in your CRA files may also be very useful during an examination for discovery. During the examination for discovery, your lawyer may use the information to catch the auditor or appeals officer (the usual deponents for the CRA) in a misstatement. The examination for discovery process sometimes leads to settlements. Most importantly, the information in the auditors own files may be used to contradict assumptions made in making the assessment.

You may obtain information in your CRA files by filing an Access to Information and Privacy (ATIP) request. The ATIP requester must complete a Form RC378. Where you may need the assistance of a tax lawyer is to ensure you are asking for the correct information. If you have no idea for what to ask (e.g., the T2020 form completed by the CRA officer each time she/he spoke to you or a representative or someone in the CRA), you may miss requesting useful information. This is the most common problem is not knowing what would be in the CRA's audit file.

The filing fee is only \$CDN 5.00.

The CRA posts limited information on the Canada Revenue Agency web-site about making an ATIP request – see How to access information at the CRA.

The next problem that arises is that the CRA may withhold information. There is the right of appeal should the CRA withhold certain information. What to do if the CRA does not disclose certain information will be addressed in a subsequent blog post.

Based on our experience, the ATIP process often results in information being provided that an auditor will not often send to the taxpayer. For example, if the auditor obtained an appraisal from the CRA, Real Property Appraisal Division, the auditor is often told not to give that document to the taxpayer. The ATIP process usually results in the release of the appraisal. Similarly the auditor often will not share internal emails. The ATIP process usually results in the release of the

internal emails. At the end of an audit, the auditor prepares a memo for the team leader/supervisor. The ATIP process usually results in the release of the Auditor's file memo(s).

Based on our experience, it is important to file an ATIP request. It is a small price to pay to possibly win the tax argument. It is a small price to pay to potentially save the expense of a hearing at the Tax Court of Canada and years of fighting the tax dispute. Finally, wouldn't you like to know what the auditor wrote in your file?

If you require assistance, please contact Cyndee Todgham Cherniak at 416-307-4168 or [cyndee@lexsage.com](mailto:cyndee@lexsage.com). We offer flat rates to file ATIP requests.

Tags: Access to Information and Privacy, appeals officer, ATIP, audit, auditor, Canada Revenue Agency, CRA, examination for discovery, goods and services tax, GST, harmonized sales tax, HST, notice of appeal, notice of objection

This Blog/Web Site is made available by the lawyer or law firm publisher for educational purposes only as well as to give you general information and a general understanding of the law, not to provide specific legal advice. By using this blog site you understand that there is no attorney client relationship between you and the Blog/Web Site publisher. The Blog/Web Site should not be used as a substitute for competent legal advice from a licensed professional attorney in your state.

The postings on this Blog/Web Site should not be attributed to McMillan LLP or Mitchell Silberberg & Knupp LLP. Some of the articles are posted by law students, and readers should use caution when relying on any post of a law student.

Cyndee Todgham Cherniak  
c/o LexSage Professional Corporation  
The Gooderham "Flatiron" Building, 49 Wellington Street East, Suite 501  
Toronto, Ontario  
M5E 1C9  
Phone: 416-307-4168  
Fax: 416-760-8999

Susan Kohn Ross  
c/o Mitchell Silberberg & Knupp LLP  
11377 W. Olympic Boulevard  
Los Angeles, California  
90064  
Phone: 310-312-3206  
Fax: 310-231-8406

Copyright © 2016, Canada-U.S. Blog. All Rights Reserved. Strategy, design, marketing & support by LexBlog