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CRA's non-existent \$4-billion tax loss

FP DAVID ROTFLEISCH, SPECIAL TO FINANCIAL POST | August 13, 2015 10:38 AM ET
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Debtors' prison is a thing of the past. Still, the CRA has the tools to bring serious pressure to bear on Canadians who are behind on their tax bills.

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The headlines last month claiming that Canada Revenue Agency wrote off at least \$4 billion in debts in the last two years may not tell the full, or an accurate, story.

Reports are that debts were declared uncollectable because the taxpayers had died, gone bankrupt, could not be located or lived outside Canada, according to CRA records obtained under the Access to Information Act.

However, the \$4 billion amount is not necessarily unpaid taxes.

In many cases the interest and penalties owing exceed the actual tax debt. So if \$4 billion has been written off, possibly only \$2 billion or less, is taxes owing. Also in some cases the amount CRA assesses may be too high, but the taxpayer decides to declare bankruptcy rather than fight the assessment. CRA also issues arbitrary assessments in cases where tax returns have not been filed. These arbitrary assessments are almost always much higher than the actual income earned. In both of these cases this would reduce the actual amount of lost taxes.

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The news story also said that Murray Rankin, the NDP's deputy revenue critic, questioned whether the government is doing enough to collect the substantial sums owed to the federal treasury.

In fact CRA collections officials, some of whom are former law enforcement officers, are extremely aggressive in their collection tactics and many taxpayers who are subjected to these collection efforts would say their powers are too broad. CRA collectors will show up at homes and places of business.

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Tax collectors are able to seize bank accounts and other assets such as accounts receivable, garnish wages, and lien houses, all without a court order. They will wrongly suggest that jail is possible in the case of GST/HST or payroll amounts owing, since these amounts are "trust funds." I have had business clients assessed, wrongly, for over \$1 million in GST/HST. This is an amount that is impossible for most small or medium companies to pay. Furthermore, the owners, as directors, are usually personally assessed for these amounts. In these cases, I may well advise the taxpayer to go bankrupt.

While many taxpayers are surprised that they can eliminate their debts under the Bankruptcy and Insolvency Act (BIA), tax and insolvency professionals are of course aware of this and make use it on behalf of their clients all of the time. Debtors' prisons are a relic of the past, and if tax debt could not be written off Canadians would have no recourse to deal with unupportable debt in excess of assets and income.

Furthermore, the BIA was amended a few years ago to require payments against tax debts in excess of \$250,000 before receiving a bankruptcy discharge, unlike regular bankruptcies where there is an automatic discharge after nine months in the case of a first bankruptcy.

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So it does not surprise me at all that there are large write-offs of tax debt. It is entirely normal for people, for reasons outside of their control, to be unable to pay debts including tax debts.

There is also nothing to prevent Canadian taxpayers to move their assets offshore and then leave the country while still owing money to CRA and this is certainly a tactic that some tax debtors employ.

Outside of the BIA, CRA only writes off debts internally where they have tried unsuccessfully to collect and there is no practical ability for the taxpayer to pay due to lack of income and assets. However CRA retains the right to collect the debt in the future, if and when the taxpayer is located or the taxpayer's financial situation improves.

David J. Rotfleisch is the founding tax lawyer of Rotfleisch & Samulovitch, P.C. a Toronto-based boutique tax law firm.
<http://www.taxpage.com>



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Reg Dahl · 5 days ago

Speak plain and obvious words people! This agency is using OPPRESSIVE FASCISM against Canadians! This agencies so called ITA rules have been rammed through THE cabinet without (voters reps- MP'S) . Remember the same cabinet and PM that created AD SCAM and more. How many Cdns have been treated like Irving Leroux? How about abrogation of our Charter - supreme law of due process? How about Edgar Schmidt's law suit vs DOJ for violation of law? If criminal code violations daily by CRA and protected by DOJ and Federal Courts across this country isn't oppressive fascism - what is it? Zero due process is not a democratic country and we can thank two agencies for creating this toxic mess! Both these agencies need to be abolished NOW!