

# NOTE ON TAX CASE RESEARCH AND ANALYSIS

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The Canadian tax rules, including *Income Tax Act* (ITA) and *Excise Tax Act* (ETA), are a complex set. It may be useful to understand tax research and to follow some phases and steps in analyzing a tax case in your role as a Tax advisor.

## Tax Research

### Sources of Tax Research

Different sources on tax research:

See Brouard. Note on Tax References List / Bibliographie en fiscalité  
<http://carleton.ca/profbrouard/taxguidefisc/>

#### Primary sources

- Tax legislation and related legislation *Income Tax Act*, R.S.C., 1985, c. 1 (5<sup>th</sup> supp.) (ITA)
- Draft legislation: Pending amendment
- International tax conventions or treaties
- Case law / judicial decisions / jurisprudence

#### Secondary sources

- Department of Finance publications (budget, technical notes and explanations)
- CRA publications (Folios, IT, IC, ATR, ITTN, forms, guides)
- Non-government publications and commentary
  - Commercial tax services and newsletters  
(CPA Canada, CCH Wolters Kluwer, Carswell, CTF/ACEF)
  - Books, including textbooks
  - Tax associations (CTF/FCF, APFF, IFA, TEI)
  - Academic tax journals  
(ex: Canadian Tax Journal / Revue fiscale canadienne (CTF/FCF),  
Revue de planification fiscale et successorale (APFF))
  - Non-academic tax journals
  - Dissertation, thesis, essay
  - Other documents

## Difficulty to read the ITA

Sherman (1997, p.51) indicates a list of factors explaining the difficulty to read the ITA.

- «every subsection is a single sentence» (See also Edwards. *CTJ* 1984, 32(4), p.727-738)
- «almost every provision contains cross-references to other provisions»
- «the words of the Act do not, on their face, give the slightest indication as to which part of a rule is the "usual" rule and which parts are the many exceptions and special cases»
- «the Act uses many defined terms»
- «pending amendments must always be considered»

## Management's Role to Taxation

- Recognize the important effect of taxes on decision making.
- Apply known tax law and rules.
- Be aware of management responsibility about taxes.
- Consider tax risks.
- Adopt an ethical behavior regarding taxes.
- If you are not knowledgeable or uncertain, consult with a tax specialist.
- Consult before a transaction, instead of waiting after.

## Keeping up to date

- You should keep your knowledge up to date.
- Refer to most recent consolidated *Income Tax Act*.  
<https://laws-lois.justice.gc.ca/eng/acts/i-3.3/>  
<https://laws-lois.justice.gc.ca/fra/lois/i-3.3/>
- Look for the consolidated date.
- Look for regular amendments and annual changes following a budget (draft legislation).
- Look for tax news services.
- Look for tax articles in journals and newspapers.
- Consider using a print version vs an electronic version.

## Phases and Steps in Case Analysis

Phases	Steps (CPA and university exams and practice)	Steps (only in practice (and maybe assignments))
Reading	<ul style="list-style-type: none"> <li>- read the «Required» section</li> <li>- read the case / simulation</li> </ul>	<ul style="list-style-type: none"> <li>- collect information from client</li> </ul>
Problem definition	<ul style="list-style-type: none"> <li>- identify the questions or issues to be resolved</li> <li>- establish the facts and context (client objectives)</li> <li>- ask questions, if facts / questions unclear or information not provided</li> <li>- propose assumptions, if necessary</li> </ul>	
Analysis	<ul style="list-style-type: none"> <li>- define terms</li> <li>- identify options</li> <li>- perform quantitative analysis</li> <li>- perform qualitative analysis</li> <li>- propose a conclusion</li> </ul>	
Research	<ul style="list-style-type: none"> <li>- consult the Tax Appendix</li> <li>- consult the Canadian Income Tax Act with Regulations, if available</li> <li>- consult textbooks, if available</li> </ul>	<ul style="list-style-type: none"> <li>- consult CRA publications</li> <li>- consult tax services (ex: TaxWorks, Tax Suite) and doctrine</li> <li>- consult relevant jurisprudence and court cases</li> <li>- consult other publications</li> </ul>
Reporting	<ul style="list-style-type: none"> <li>- adopt a structure for the written report</li> <li>- answer clearly the questions or issues</li> <li>- formulate recommendations, including tax planning ideas</li> </ul>	<ul style="list-style-type: none"> <li>- write notes for the client file</li> </ul>
Submission	<ul style="list-style-type: none"> <li>- submit the written report</li> </ul>	
Implementation		<ul style="list-style-type: none"> <li>- decision by client</li> <li>- implement recommendation</li> <li>- cooperation with lawyers and other professionals</li> </ul>