

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 (5th 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/ACEF, APFF, IFA, TEI)
 - Academic tax journals
(ex: Canadian Tax Journal / Revue fiscale canadienne (CTF/ACEF),
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.
- Management responsibility about taxes
- 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 ITA up to date.
- Look for the consolidated date.
- Look for news services.
- Compare 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"> - read the «Required» section - read the case / simulation | <ul style="list-style-type: none"> - collect information from client |
| Problem definition | <ul style="list-style-type: none"> - identify the questions or issues to be resolved - establish the facts and context (client objectives) - ask questions, if facts / questions unclear or information not provided - propose assumptions, if necessary | |
| Analysis | <ul style="list-style-type: none"> - define terms - identify alternatives - perform quantitative analysis - perform qualitative analysis - propose a conclusion | |
| Research | <ul style="list-style-type: none"> - consult the Tax Appendix - consult the Canadian Income Tax Act with Regulations | <ul style="list-style-type: none"> - consult CRA publications - consult tax services (ex: TaxWorks, Tax Suite) and doctrine - consult relevant jurisprudence and court cases - consult other publications |
| Reporting | <ul style="list-style-type: none"> - adopt a structure for the written report - answer clearly the questions or issues - formulate recommendations, including tax planning ideas | <ul style="list-style-type: none"> - write notes for the client file |
| Submission | <ul style="list-style-type: none"> - submit the written report | |
| Implementation | | <ul style="list-style-type: none"> - decision by client - implement recommendation - cooperation with lawyers |