



November 10, 2015

The Honourable Diane Lebouthillier  
Minister of National Revenue  
7<sup>th</sup> Floor  
555 MacKenzie Avenue  
Ottawa ON K1A 0L5

Delivered via Xpress Post.

Dear Minister Lebouthillier,

SUBJECT: The CRA Gifting Tax Shelter Policy

First of all, please accept our congratulations on your election and appointment to Cabinet. Many of our Members voted for your Party as a result of your promise to reform the CRA and this letter is on that subject.

We have now written seven letters on this topic, six of them to your predecessors. We have sent emails, enclosed petitions signed by over 1,500 taxpayers, and gave full and detailed explanations of abuse of taxpayer rights being carried out by the Canada Revenue Agency. Not only did the previous Ministers not take action on our letters, they did not even provide us the courtesy of a response.

Our organization has over 5,500 subscribers who we are representing with this letter. As of today, the CRA continues to withhold certain taxpayer 2012 and 2013 and 2014 tax returns as ransom for waiving their rights to valid tax credits. We are writing again to urgently request that you intervene to correct this abuse.

The CRA abuse from their Gifting Tax Shelter (GTS) Policy started to have impact in mid 2013. From then to the present, two Federal Court cases have ruled that the CRA GTS policy is unlawful and an abuse of taxpayer rights. Taxpayers who have participated in a Gifting Arrangement have the right to have their returns processed in the same manner you process all other taxpayers, and with all due dispatch.

In the most recent Federal Court case (Robert McNally vs the Minister of National Revenue), Federal Court Justice S. J. Harrington ruled that CRA does not have the authority to withhold taxpayers returns for the primary purpose of deterring taxpayers from participating in a gifting arrangement. During the June 11, 2015 hearing, CRA admitted that the primary purpose of withholding taxpayers' returns was to deter taxpayers from participating in a gifting arrangement. Justice Harrington agreed with Justice

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Phelan (Ficek vs Attorney General) that the CRA does not have this authority for this primary purpose, even if there is a secondary purpose of auditing which may be valid.

The CRA appealed the McNally decision and the Federal Court of Appeal dismissed the appeal, unanimously agreeing with the previous decisions that the CRA does not have the authority to deter taxpayers from participating in lawfully registered gifting arrangements by withholding their tax returns for years on end. We are attaching a copy of that Federal Court of Appeal decision, which was just rendered Nov 6, 2015.

Now with TWO Federal Court Justices and the Federal Court of Appeal all agreeing and ruling that the CRA cannot withhold taxpayers returns for their stated purpose, we hereby URGENTLY REQUEST that you intervene to stop the CRA GTS policy and process all taxpayer returns with all due dispatch. While we understand that the CRA reform will take some time, this particular abuse can be corrected by you immediately. The CRA has a history of ignoring the Federal Court on this subject therefore we are of the opinion your direct intervention is the only solution.

Please provide us with a response to this request as soon as possible. If you have any further questions, please do not hesitate to contact me. Thank you in advance for your cooperation.

Yours truly,



J. Jaye Torley  
President  
Profitable Giving Canada