

# R.G. Allen

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## INCOME TAX CONSULTANT

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July 30<sup>th</sup>, 2013

Minister of National Revenue  
Ottawa Ontario Canada K1A 0A6

Attn: Kerry-Lynne D. Findlay, PC., QC., M. P.

Fax # 1-613-952-6608

Dear Madam:

Further to your response letter dated July 29<sup>th</sup>, 2013 (copy attached), this is to address the various points outlined in that letter.

1. Obviously, the CRA is able to examine tax returns and ultimately audit and reassess tax returns in accordance with Income Tax Law. As we know, when a taxpayer is reassessed on a particular issue they have the right to file a Notice of Objection and ultimately Appeal to the Courts.
2. With regard to the specific issues with the Winnipeg Tax Centre; they and your office are well aware that the tax shelters that this taxpayer and all the others have participated in have already been assessed and Notices of Objection have been filed by most, if not all, of the taxpayers involved.
3. It is unfortunate for all taxpayers in this current position that your office has not addressed the real legal issues as raised in my previous correspondence; most specifically the decisions made by the Federal Court in the *ALICE FICEK V THE ATTORNEY GENERAL OF CANADA*. The taxpayers deserve a written response from your office on each of the following highlighted issues addressed by that Court.
  - 1) "while the Director of the Winnipeg Tax Centre tried to describe the purpose as simply verification of donations, **I CONCLUDE THAT ITS REAL AIM WAS TO DETER TAXPAYERS FROM PARTICIPATING IN THE GLGI PROGRAM.** (a tax shelter).
  - 2) Those taxpayers within the Centre's ambit were to be treated differently from taxpayers in the rest of the country ***"This is inconsistent with the Federal and National Nature of the Minister's obligation"***
  - 3) The Winnipeg Tax Centre had already determined that the donations claimed were not legitimate.
  - 4) Concerns of Superiors at the CRA in Ottawa; **"Headquarters has cautioned that there may be unintended effects on taxpayers rights where the taxpayers may have rights to certain benefits under the act, such as Child Tax Benefits and the Goods and Services Tax/Harmonized Sales Tax Credits, as these would be delayed until the assessment of the return.**
  - 5) The Audit is an excuse for delay **NOT** a reason for delay.
  - 6) Whatever the merits of CRA's concerns about the legitimacy of the GLGI donation program **THAT IS A MATTER FOR TAX COURT.**

- 7) There are no local circumstances which justify the marked departure from the National Policy. More importantly, the **MINISTER'S OBLIGATION TO ASSESS REMAINS UNAFFECTED BY LOCAL POLICY CONCERNS.**

**Court's Conclusion:** The applicant is entitled to a Declaration that the Minister failed to comply with the duty to assess with all due dispatch.

**JUDGEMENT: THE COURT ADJUDGES AND DECLARES that for the reasons given THE RESPONDENT FAILED TO ASSESS THE APPLICANT'S RETURN WITH ALL DUE DISPATCH; Costs shall be as agreed between parties.**

On behalf of this taxpayer, we respectfully submit that your response letter of July 29<sup>th</sup>, 2013 **DID NOT** address the legal issues involved. The letter reiterated part of the policy of the CRA of which we are all aware. We all know that the **CRA DOES NOT** create or legislate Income Tax Law but administers that law. The process that they are attempting to create law and National Policy regarding Income Tax matters is not in accordance with all of the points and issues as specified by the Federal Court decision described herein. Furthermore, in consideration of the decision in your letter of July 29<sup>th</sup>, 2013; it is obvious that your office chooses **NOT** to address the legal issues involved; chooses to condone the practices of the Winnipeg Office that are in direct contravention of the Federal Court decision (Alice Ficek v the Attorney General of Canada) and chooses to defer to the policy of the Winnipeg Tax Centre rather than the Federal Court Decision. Our question on behalf of this taxpayer is as follows: ***"How can the Minister of National Revenue accept, follow and condone the policy practise of the CRA (Winnipeg Tax Centre) when these practices have been refuted by a Federal Court? Can the CRA actually have more Legal Authority than the Federal court?"***

The taxpayer deserves a written answer to these questions since we all know that, in Canada, we, including the CRA are governed by law.

Your written response is appreciated.

Sincerely,



R. G. Allen  
Income Tax Consultant