



Canada Revenue Agency Agence du revenu
du Canada

Commissioner Commissaire

APR 13 2015

Mr. Jean-Denis Fréchette
Parliamentary Budget Officer
50 O'Connor Street, Suite 919
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Parliamentary Budget Officer

APR 13 2015

Directeur parlementaire
du budget

Dear Mr. Fréchette:

I am writing in response to your letter received March 30, 2015, concerning the Parliamentary Budget Office (PBO) Information Request IR0102: Tax Gap Estimate.

Your original request was for CRA data to analyze the 'tax gap'. However, recent correspondence and discussions have centered on the PBO's request to have a general access to confidential individual taxpayer information. The CRA offered in November 2014 to meet with the PBO to present the strong and clear legal position regarding your access to this information. Since that offer, several meetings have taken place in which both sides presented their legal analysis. Justice Canada is the legal counsel for the CRA and was present with senior CRA management at all meetings.

As you are aware, confidentiality provisions of the *Income Tax Act* and the *Excise Tax Act* expressly prevent CRA officials from providing any person with unauthorized access to taxpayer information. Anyone who knowingly contravenes these confidentiality provisions may be guilty of an offence and could be liable to a fine or imprisonment.

Section 241 of the *Income Tax Act* and section 295 of the *Excise Tax Act* specify the organizations to whom or purposes for which taxpayer information may be provided. For example, section 241(4)(e)(ii) of the *Income Tax Act* allows the CRA to provide taxpayer information to the Auditor General. The *Income Tax Act* refers to section 13 of the *Auditor General Act*, which authorizes the Auditor General to access information related to the fulfillment of his responsibilities. There is no comparable provision in the *Income Tax Act* or *Excise Tax Act* for the PBO.

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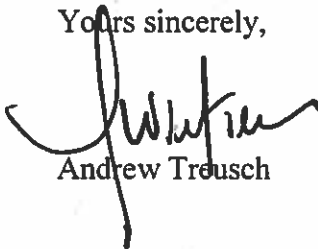
As we have informed you, after taking all relevant legislation and jurisprudence into account, our position is that the PBO does not have authority to access confidential taxpayer information. Removing direct identifiers, as suggested by the PBO, would not be sufficient to prevent individual taxpayers being identified through other features of the data. The CRA cannot, therefore, provide access to this 'de-identified' micro data.

As you do not accept the CRA's position, you have suggested that the CRA and PBO refer the matter to the Federal Court jointly for a resolution. The CRA declines to pursue a joint reference. In our view, the legal position relating to your request is clear and unambiguous. Given this, there is no value in seeking further clarification through a costly joint reference.

The CRA makes aggregate tax data available through our website and the Open Government Portal, and prepares statistical data in response to external requests on a cost recovery basis. The CRA remains prepared to provide aggregate data to the PBO in accordance with the law, as agreed last year.

Should you wish to pursue this original request, please contact Ms. Catherine Bennett, Assistant Commissioner, Strategy and Integration Branch, at 613-952-3660.

Yours sincerely,



Andrew Treusch

c.c.: Mr. Paul Rochon
Deputy Minister
Department of Finance Canada

Mr. Doug Nevison
Assistant Secretary to the Cabinet
Liaison Secretariat for Macroeconomic Policy
Privy Council Office