

THE RISKY BUSINESS OF TAX

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CPA

CHARTERED
PROFESSIONAL
ACCOUNTANTS
CANADA

COMPTABLES
PROFESSIONNELS
AGRÉÉS
CANADA

Trends in Claims

Percentage of Claims Per Area – Canada

Area of Involvement	1999 to 2019	
	No. of Claims (%)	Incurred Expense (%)
Audit	8.2	32.0
Review	5.1	6.4
Notice to Reader	7.1	3.0
Tax	58.3	39.8
Management Consulting	0.4	0.4
Receiver /Trustee in Bankruptcy	2.5	2.3
Fee Dispute /Counterclaim	3.3	1.7
Shareholders Dispute	0.9	0.6
Purchase /Sale Agreement	2.8	2.7
Other	10.6	10.4
Bookkeeping	0.8	0.7
TOTAL	100.0	100.0

Percentage of Claims Per Area

Area of Involvement	Ontario		Quebec		Newfoundland		New Brunswick		Nova Scotia		Prince Edward Island	
	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)
Audit	9.3	36.2	7.8	32.4	10.8	10.9	15.6	54.1	6.2	45.7	6.7	0.0
Review	4.5	5.9	5.8	3.2	5.4	0.0	6.7	6.8	4.3	0.1	6.7	0.0
Notice to Reader	7.4	3.7	7.5	2.0	2.7	0.0	8.9	0.0	4.4	0.1	0.0	0.0
Tax	57.8	38.9	52.1	38.8	62.2	68.3	44.5	11.2	64.6	34.0	60.0	14.1
Management Consulting	0.4	0.0	0.7	0.7	0.0	0.0	2.2	26.5	0.0	0.0	0.0	0.0
Receiver /Trustee in Bankruptcy	2.7	2.2	2.6	2.7	2.7	0.1	0.0	0.0	4.4	14.2	6.7	0.0
Fee Dispute /Counterclaim	3.4	1.3	4.2	3.0	0.0	0.0	4.4	0.1	1.9	0.5	0.0	0.0
Shareholders Dispute	0.8	0.2	1.0	0.2	0.0	0.0	0.0	0.0	0.6	0.1	0.0	0.0
Purchase /Sale Agreement	2.7	2.4	3.3	2.5	5.4	19.5	4.4	1.1	6.8	1.9	0.0	0.0
Other	10.3	8.6	13.6	13.6	10.8	1.2	13.3	0.2	6.2	3.4	19.9	85.9
Bookkeeping	0.7	0.6	1.4	0.9	0.0	0.0	0.0	0.0	0.6	0.0	0.0	0.0
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Percentage of Claims Per Area

Area of Involvement	British Columbia		Alberta		Saskatchewan		Manitoba		Territories	
	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)	No. of Claims (%)	Incurred Expense (%)
Audit	6.5	13.4	7.2	33.9	6.3	0.3	13.3	2.4	38.4	5.5
Review	4.8	12.8	5.0	12.3	7.9	0.3	6.6	1.5	15.4	8.0
Notice to Reader	6.5	5.0	7.0	1.4	8.6	6.1	5.4	0.3	0.0	0.0
Tax	67.2	56.2	61.5	26.1	63.0	81.2	56.0	79.2	15.4	0.0
Management Consulting	0.0	0.0	0.3	0.1	0.0	0.0	0.0	0.0	0.0	0.0
Receiver /Trustee in Bankruptcy	2.2	1.1	1.8	1.5	1.6	0.8	2.4	0.3	0.0	0.0
Fee Dispute /Counterclaim	2.5	0.7	2.7	1.9	1.6	0.1	2.4	0.8	0.0	0.0
Shareholders Dispute	1.1	0.9	0.9	3.5	0.8	0.0	0.6	0.0	0.0	0.0
Purchase /Sale Agreement	2.1	1.5	2.3	4.9	2.3	7.0	1.2	1.1	0.0	0.0
Other	6.5	8.3	10.6	13.1	7.9	4.2	12.1	14.4	30.8	86.5
Bookkeeping	0.6	0.1	0.7	1.3	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Categories of Tax Claims

- Lack of Tax Expertise
- Lack of Attention to Detail
- Lack of Documentation for Filing Position Taken

Shareholder Loans

➤ Subsection 15(2)

Deemed Proceeds or Gain

➤ S. 55(2)

Family Trusts

- 75 (2) Attribution Rules

Non-arm's Length Sale of Shares

84.1

- Deemed Dividend
- Reorganization of Shares
- Non-Share Consideration
- Rectification
- Recission

Tax Liability re Property Transferred Not at Arm's Length

S. 160

- Clearance Certificates
- Dividends

Information Returns

➤ T1134 and T1135

Timing Errors

- Capital Dividend Account
- Capital Dividend Designation from a Trust

Dividend Refund

- Late Filed Returns
- Part IV Tax
- Denial of Dividend Refund

R&D Claims

➤ 18 Months

HST, GST

- Is It Part of Your Mandate?

What to Do When You Have a Claim

****A claim does not only refer to a Statement of Claim / Litigation***

- If you realize you have made an error – DO call your insurer first for guidance
- If you receive a claim, verbally or in writing – DO contact your insurer before taking any other steps
- DO NOT admit responsibility
- DO NOT offer to pay damages

Risk Management Tips

Office Systems

- Use of checklists
- Tracking deadlines and filings
- Second reviews
- Client acceptance practices
- Is there a conflict of interest?
- Referral sources

Education

- Keep current regarding developments to the Income Tax Act
- Know your clients
- Evaluate risk
- Know your skills and resources

Documentation

- Engagement letter
- All material advice in writing
- Document risks and rewards and confirm client instructions
- Valuations
- Verbal tax advice – keep notes

Engagement Letter

- Detailed
- Defines services to be provided
- Defines services which will not be provided
- Current
- Limitations of Liability

Communication

- Make it clear who is to be communicated with
- Make sure all parties are aware of any material developments
- Be wary of disgruntled shareholders, family members and other users of financial statements
- Multiple service providers

Thank you!