

case beyond what has been set out in the notice of appeal and the reply to the notice of appeal, so he may ask questions about your case.

After you have presented your case and called your witnesses, if any, counsel for the respondent will be permitted to ask questions of you and your witnesses. Once you are finished, counsel for the respondent will present his position in response to your case. You may ask questions of witnesses called by counsel for the respondent once he has finished questioning them.

After all the evidence and facts have been presented, you must present your position as to how the law should be applied to your appeal. Counsel for the respondent will then present his position as to why the appeal should not be allowed. The judge may permit you to respond to the respondent's position.

Once both parties have concluded, the judge may take a recess, may give his decision or may reserve the decision, in which case he will give the decision at a later date. You will receive an official copy of the judgment by registered mail.

Please note that if reasons for judgment are issued in your appeal, they may be published on the Internet and/or in other publications.

Costs

If you incurred costs for which the rules make provision, you may ask the judge for costs at the same time that you ask him to allow your appeal.

You should also be aware of the fees that are paid to witnesses who have been served with a subpoena. See the Tax Court of Canada's rules applicable to your appeal.

If you are successful in an appeal under the Informal Procedure, your \$100 filing fee will automatically be refunded (this does not apply to General Procedure appeals).

Checklist

- Special needs?
 - Call the hearings coordinator
- Translator?
 - For you or your witnesses, call the hearings coordinator
- Witnesses?
 - For subpoenas, communicate in writing with the hearings coordinator or the Registry office nearest you
 - Fees
- Exhibits/Documents?
 - Notice of Appeal
 - Reply to Notice of Appeal
 - Two copies, in addition to your own, of all other documents
- Dress?
 - Business attire
- Attend Court Hearing?
 - Call the hearings coordinator for available times and locations or visit our Web site and click on "Hearing Schedule"

Use of the masculine in this pamphlet is generic and applies to both men and women

Questions should be forwarded to the Registry of the Tax Court of Canada

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Our Web Site
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disponibles en français

Produced by the Tax Court of Canada

TAX COURT OF CANADA

Your Day in Court



Your Day in Court

Introduction

This pamphlet is designed to assist appellants who intend to represent themselves, or have someone who is not a lawyer represent them.

This pamphlet is meant as a guide only. The directions and instructions of the presiding judge and the court registrar will prevail over the information contained in this pamphlet.

Getting Ready

Once you have received your notice of hearing, it is time to prepare your case for the hearing.

If you are not available for the date assigned for your hearing, send a letter as soon as possible to the hearings coordinator explaining in detail why you are not available.

If you intend to call witnesses for the hearing, it is suggested that you contact the Registry of the Court in writing in advance to obtain subpoenas, especially if expert witnesses like doctors or accountants are required. If you believe that a government official (for example, an official of the Canada Customs and Revenue Agency) has information helpful to your case, you may subpoena that official.

A subpoena legally requires a person to attend the hearing and to bring documents (if any) specified by you. According to the Tax

Court of Canada's rules, witnesses who have been served with subpoenas are entitled to a fee, which you must pay. You must serve the subpoenas on your witnesses and will require proof of service if they fail to appear. Should you need any information, please contact the Registry of the Court.

If you and/or any witnesses have special needs or require a translator, contact immediately the hearings coordinator identified in your notice of hearing, or the Registry of the Court, so that arrangements may be made in advance to accommodate your needs. There is no charge for these services.

If you can, we invite you to attend other hearings before your court appearance. This will help you to become familiar with the Court's procedure and to understand how a hearing is conducted. The hearings coordinator, or a registry officer, can provide you with a schedule of the hearings in your community or the nearest location to you.

It is recommended that you bring your notice of appeal and the reply to the notice of appeal with you to the hearing. Also, you will need to bring two copies, in addition to your own, of any documents you intend to submit to the Court at the hearing of your appeal. This is required so that the judge and counsel for the respondent can follow your evidence.

A checklist to help you prepare for the hearing is included in this pamphlet.

Participants

Your hearing will involve several participants, including:

1. the judge;
2. the court registrar, who will greet you when you arrive;

3. a court registrar/reporter, who will record the proceedings. You may purchase a copy of the transcript of the proceedings from the reporting firm. However, transcripts of oral reasons for judgments have to be requested by the Tax Court of Canada and are reviewed by the presiding judge before being issued to the parties;
4. yourself;
5. counsel for the respondent, who is a lawyer representing the other party in your appeal, and his witnesses, if any; and
6. your lawyer or agent (if applicable) and your witnesses, if any.

Arrival

You should arrive and be ready for your hearing 15 minutes prior to the time scheduled for commencement. Your case may not be called first but your presence at the scheduled time is mandatory.

Before the proceedings commence, locate the court registrar and notify him of your presence. The court registrar will provide instructions, including where to sit, where you will testify and other information. We encourage you to address any questions you may have to the court registrar before the sitting is opened. The court registrar cannot give legal advice or respond to any questions of a legal nature.

Behaviour in Court

Normal business attire is recommended for court appearances. Food, drinks, coats, hats, chewing gum, pagers, cellular phones, cameras and tape recorders are not permitted in the courtroom.

When the proceedings begin, the court registrar enters the courtroom followed by the judge, at which point everyone rises. The court registrar declares the sitting open and asks everyone to be seated. At

this point, the court registrar announces the first case. The presiding judge controls the proceedings during the hearing. The court registrar calls the cases, administers oaths, records exhibits, etc.

When speaking to the judge or when he speaks to you, please stand and address the judge as "Your Honour". Always face the judge and speak loud and clear. The court registrar is addressed as "Mr./Ms. Registrar".

Guests are welcome. However, only those who have a direct role in the hearing are permitted to sit at the table for counsel. Witnesses and other guests are seated in the audience.

Process

In most instances, the appellant is asked to present his case first. You will be asked to enter the witness stand and to state your full name and address. You will also be asked to either take an oath on the Bible or give a solemn affirmation; this is your choice. Either party may make a request to the judge to exclude witnesses during the testimony of other witnesses.

At this point, the judge will usually expect you to present your case. This may involve simply telling the judge the facts and the reasons for your appeal and providing documents, if any, as evidence in support of your explanations. Either side may call witnesses to testify. When submitting exhibits or other documents, please hand them to the court registrar. Both parties are allowed to object to the use of any of the documents that are submitted as exhibits.

The judge is neutral and independent. The judge has no knowledge of your particular