
WRITTEN SUBMISSION · PRE-BUDGET CONSULTATIONS · 2026

Principles Respecting Conduct in Canada's Tax Dispute System

Written Submission for the Pre-Budget Consultations in Advance of the 2026 Federal Budget

Submitted by Counter Tax Litigators LLP through the Canadian Institute for Tax Controversy Studies.

May 22, 2026

RECOMMENDATION

That the Government of Canada initiate development of *Principles Respecting Conduct in Canada's Tax Dispute System* through a cross-institution initiative led by the Attorney General of Canada and involving the Department of Justice, the Canada Revenue Agency, experienced private-bar participants, and other dispute-system participants.

The initiative would include:

- a defined application framework;
- core objectives respecting proportionality, defensibility, rationale discipline, and issue narrowing;
and
- public conduct guidelines supporting coordinated dispute administration across audit, objection, and Tax Court appeal stages.

The initiative would support more consistent alignment between expanding administrative capability and coordinated conduct across tax disputes.

SUBMISSION

Canada's tax dispute system operates within an increasingly sophisticated enforcement environment shaped by expanding administrative powers, procedural complexity, and distributed mandates across the Canada Revenue Agency, the Department of Justice, the Department of Finance, and the Tax Court of Canada.

As CRA administrative powers and enforcement discretion expand, coordinated conduct principles become increasingly important. In mature administrative systems, expanding administrative capability is typically accompanied by increasingly sophisticated conduct guidance supporting coherence, predictability, and confidence in the exercise of public authority.

Canada's tax dispute system currently lacks shared principles governing how CRA and DoJ conduct disputes across audit, objection, and Tax Court appeal stages. In this submission, "tax dispute system" refers collectively to the audit, objection, and Tax Court appeal stages through which federal tax disputes evolve.

Internal administrative guidance and a public dispute-conduct framework do not perform the same institutional function. Internal guidance may shape conduct within a particular organization. A public framework coordinates expectations, behaviour, and accountability across the dispute system itself.

This absence is structural rather than behavioural. CRA and DoJ currently develop and apply conduct expectations largely through local practice rather than coordinated design. In a distributed system operating across audit, objection, and Tax Court appeal stages, this result is both understandable and predictable.

As disputes evolve across these stages, inconsistent narrowing and rationale practices can increase escalation, procedural friction, and dispute cost despite the institutions involved acting appropriately within their respective mandates.

As tax enforcement environments become more sophisticated and discretionary, conduct coordination increasingly becomes a system-level governance issue rather than merely a litigation-management issue.

The result is variation in proportionality, defensibility, rationale discipline, and issue narrowing across disputes. These effects influence not only dispute outcomes, but also administrative efficiency, litigation cost, institutional coherence, and confidence in the administration of Canada's tax system. These considerations become increasingly important as government continues to pursue efficiency, proportionality, and access-to-justice objectives across the tax dispute system.

Canada has already demonstrated that principles-based conduct coordination can operate within existing authority. The *Attorney General of Canada's Directive on Civil Litigation Involving Indigenous Peoples*¹ established shared guidance governing litigation conduct across distributed public-law mandates while preserving institutional independence and professional judgement.

The Directive reflects recognition that litigation conduct can become a system-level governance issue rather than merely a file-management issue within complex public-law environments. Tax disputes increasingly present similar structural conditions.

In both contexts, CRA and DoJ exercise significant public authority within asymmetric environments shaped by distributed mandates and discretionary decision-making.

The Indigenous Litigation Directive demonstrates that principles-based guidance can translate broad conduct expectations into operational practice across distributed mandates without legislative restructuring.

The proposed framework would not prescribe litigation outcomes or constrain institutional independence. Rather, it would support more coherent conduct across CRA and DoJ as disputes evolve through audit, objection, and Tax Court appeal stages.

A principles-based framework would strengthen predictability, proportionality, defensibility, and institutional coherence across tax disputes.

¹ Department of Justice Canada, *The Attorney General of Canada's Directive on Civil Litigation Involving Indigenous Peoples*. justice.gc.ca/eng/csj-sjc/ijr-dja/dclip-dlcpa/litigation-litiges.html

SUPPORTING MATERIALS

Supporting Analysis: *A Framework for Accountable and Principled Conduct in Tax Disputes* countertax.ca/insights/tax-litigation-conduct-framework

ABOUT

Counter Tax Litigators LLP helps private companies navigate complex disputes with the Canada Revenue Agency across audit, objection, and Tax Court appeal stages. The Canadian Institute for Tax Controversy Studies is an institutional initiative through Counter Tax Litigators LLP focused on the structural, administrative, and public-law dimensions of Canada's tax dispute system.