



Tax Debts - You're Not Off The Hook Yet!

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This article originally appeared in the June 2003 issue of "Blaneys on Business".

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Many people must have been feeling joyous recently as they read the excited newspaper accounts of the Supreme Court of Canada decision in the Markevich case.

In that decision, the Court told the Canada Customs and Revenue Agency (CCRA) that it was too late to collect on a tax debt of some \$770,000. Taxpayers likely rubbed their hands with glee as the commentators promptly predicted that this could cost the federal treasury billions.

Our advice? Not so fast. It is not that we want to rain on anybody's parade, but the decision arises out of a very narrow set of circumstances that might not be found in all that many cases.

Mr. Markevich, a resident of British Columbia, was assessed in June of 1986 for a federal and provincial tax liability of approximately \$234,000 arising from a series of assessments and unpaid taxes in respect of his 1980 - 1985 taxation years.

Mr. Markevich did not challenge this assessment and paid nothing on the outstanding amount. The debt was written off internally by the CCRA but was not extinguished or for-given. From 1987 to 1997, the CCRA made no effort to collect the debt and statements issued to Mr. Markevich during that period did not reflect the 1986 balance. It was not until January of 1998 that the CCRA, for the first time during this period, sent a statement of account to Mr. Markevich that indicated a balance of approximately \$770,000 (the amount owing as of June 1986 plus accrued interest).

Sifting through all of the arguments pro and con, the Supreme Court of Canada ruled that the *Crown Liability and Proceedings Act* as well as provincial statutes of limitations apply to the collection of tax debts. (In British Columbia, the limitation period is six years.) The Court therefore held that the Markevitch debt was essentially extinguished because of a lack of enforcement.

The Court's "bottom line" appears to be that, at a point in time, people may reasonably come to expect that they will not be called upon to account for a liability (including a tax debt) and may conduct their affairs in reliance on that expectation. The limitation periods vary in other provinces.

Before everybody jumps for joy at the prospect of not having to pay tax debts, it is important to remember that the circumstances of the Markevich case are highly unusual. Many people are aware of situations where an assessment has been made, a Notice of Objection has been filed and the CCRA has subsequently been silent for months or even years.

These are not situations in which the limitation period is running because the *Income Tax Act* prohibits any collection action before an appeal is resolved. Mr. Markevich did not dispute the debt. Nor did he appeal. This means that, in retrospect, the limitations clock started ticking at his June, 1986 reassessment.

It seems unlikely that there would be many situations in which an assessment is made, an objection is not filed, the bill is not paid, and the CCRA simply doesn't bother trying to collect – let alone for 12 years.

So don't spend that money just yet!