



## Tax

# Taxpayers at centre of CRA leak may find "remedies" inadequate

By AdvocateDaily.com Staff



A list of prominent Canadians who found themselves at the centre of a recent Canada Revenue Agency (CRA) information leak to the media may not find the remedies available to them very satisfying, Toronto tax litigator [Adrienne Woodyard](#) writes in [Lexpert](#).

As Woodyard, a lawyer with Davis LLP, writes, the CRA recently sent the CBC a list of names of Canadian taxpayers who donated artwork to galleries and museums and claimed charitable tax credits for those donations. The list, according to the CRA, “discloses the amounts of the credits that were claimed and the amounts that were granted, along with each donor’s address.” There are signs that the disclosure was not deliberate, writes Woodyard, but we may never know exactly what happened.

While the CRA may need more security protocols in place to ensure that external emails cannot be sent so easily, in terms of remedies, Woodyard writes that anything the CRA may do for the taxpayers at the centre of the leak at this point “is tantamount to closing the barn door after the horse has escaped.”

“The CRA should be updating them directly on the steps they are taking to secure their information – and to reassure them that the same document has not also been distributed to others. It may be possible for these donors to bring a civil action in negligence against the CRA, although damages could be difficult to prove.”

In terms of formal channels, she says, the CRA’s gathering and retention of information is governed by the federal Privacy Act, which means that the donors could file a complaint with the Access to Information and Privacy Directorate, or the Office of the Privacy



Commissioner of Canada. They could also file a Service Complaint with the CRA and with the Office of the Taxpayers' Ombudsman. Depending on what actually happened, the RCMP may even become involved since it is an offence under the Income Tax Act to "knowingly" provide taxpayer information to a third party, writes Woodyard.

From the CRA's perspective, Woodyard says that, if the leak was the result of a keying error, the agency should be grateful that the information didn't end up in the hands of a less responsible third party than the CBC - though "from a damage-control perspective, you could hardly do worse than to send this kind of information accidentally to a major media outlet."

But more serious, Woodyard says, is an incident earlier this year in which the CRA website was shut down due to the Heartbleed bug, which compromised the security of the social insurance numbers of 900 taxpayers. Woodyard comments, "It's a sobering reminder of how vulnerable Canadian taxpayers are, given the vast amounts of confidential data the CRA is responsible for gathering, administering and, ultimately, protecting."