

**FORM 301 Rule 301**

**Notice of Application**  
(Court File No.)

**FEDERAL COURT**

BETWEEN:

**Laila McMillan**  
(Applicant)

And

**CRA**  
(Respondent)

APPLICATION FOR JUDICIAL REVIEW PURSUANT TO SECTION 18.1 OF THE  
FEDERAL COURTS ACT

**NOTICE OF APPLICATION TO FEDERAL COURT  
FOR JUDICIAL REVIEW**

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at *Victoria, British Columbia*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-

represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

*(Date)*

Issued by: *(Registry Officer)*

Address of local office:

TO: *(Name and address of each respondent)*

*(Name and address of every other person required to be served)*

# Application

This is an application for judicial review in respect of:

CRA: Second Review – Relief decision for the tax year 2005

Dated Aug 6, 2024 Reference Number GB42441 2141 7053

The applicant makes application for Judicial review of the decision from CRA regarding **Request for Second Independent Review for Taxpayer Relief by**

- Requesting that the court provide relief of both the principal and the interest in it is entirely due to CRA's extreme mishandling of the case over a period of over 18 years.

If this cannot be supported by the court, then:

- Request that the court hold CRA accountable to the principal amount owing as reported on the CRA provided court document (attached document #3 section 1.7) where it states that "the Former Spouse's participation in the CHT arrangement resulted in a net tax advantage of **\$6,818.00** for the appellant". This amount is contrary to the statement of account showing a principal amount of **\$13,641.84** (see section 13.7 in attached document #5).
- Request that the court provide Relief of the Interest on the entire principal amount due to processing **delays and undue delays, incorrect/inconsistent information provided to a taxpayer, actions of CRA including complete inability to talk to CRA or have an agent assigned to the case and inability to pay or financial hardship.** (as outlined more fully below).
- Alternately to remove the interest on specific periods where it should not have been charged due to various reasons as outlined. (see attached document #14) and provide **clear** documentation of how the interest has been adjusted over time.
- That the 2022 incorrectly confiscated tax return in the amount of \$6,449.34 be returned to the appellant with interest.

ON THE BASIS OF:

1. It was the appellant's ex-husband Dave McMillan and not the appellant Laila McMillan who invested in the CHT donation program and all communication between 2005 and 2008 was between CHT and or CRA and Dave McMillan. The appellant was not made aware of an issue with the donation until sometime after

2008 (see document #12). Therefore all comments from CRA regarding whether the appellant should have known better than to invest in the scheme should be deemed irrelevant.

2. The appellant, Laila McMillan did enter the donation into her 2005 income tax return at the request of her husband but only after calling CRA to ask if the charity was in good standing. CRA told the appellant that there were no issues against the charity on record.
3. Inability, despite asking CRA on many occasions to obtain a copy of my 2005 tax return and resulting tax assessment notice to confirm principal amount on which interest was charged. Appellant has no records going back to 2005. CRA has not provided the documents requested.
4. The lack of communication and the inability to have a CRA agent assigned to the case while interest continues to accumulate for years. Where there is no incentive and perhaps even a disincentive for CRA to act quickly to resolve issues while interest continues to accumulate?
5. The fact that CRA confiscated my 2022 tax return in contravention of the Taxpayer Bill of Rights #7 that states "You have the right not to pay personal tax amounts in dispute until you have had an impartial review by CRA or, if you have sent an appeal to the Tax Court of Canada, until that court has issued its decision."

The amount was confiscated on May 10<sup>th</sup>, 2023 without the benefit of an impartial review by CRA and while **A Tax Court Appeal** was pending. See letter dated May 8<sup>th</sup>, noting registration of filing on May 3<sup>rd</sup>, and forwarded to CRA on May 9<sup>th</sup>. (see attached document #11)

6. The fact that although a **Second Independent Review for Taxpayer Relief** was based on each of:
  - Extraordinary Circumstances
  - Actions of CRA
  - Inability to Pay or Financial Hardship

CRA only considered Inability to Pay or Financial Hardship in their response (see document #1)

The request for Taxpayer Relief was based on:

1. EXTRAORDINARY CIRCUMSTANCES
  - **Processing Delays and Undue Delays** in resolving an object or an appeal. The extreme processing delays from 2005 the year of the donation to June 30, 2022 when I received the Notice of Confirmation

resulting in a delay of more than 18 years. I have not to date been able to speak to an agent assigned to the case or obtain requested tax returns and assessments for the 2005 tax year from CRA since receiving the "Notice of Confirmation" in June 2022, despite numerous attempts. Note also that the letter was received in 2022 when apparently the court decision was made sometime in 2018. A further two-year delay.

- **Incorrect/inconsistent Information provided to a taxpayer** that the amount in dispute has not been verified since the Statement of Account received in September 2022 indicates a principal amount of **\$13,641.84** and Tax Court document (13.7) states that "the Former Spouse's participation in the CHT arrangement resulted in a net tax advantage of **\$6,818.00** for the appellant". This brings into question the entire amount of principal and interest charged on the account. The appellant has asked CRA to resolve the discrepancy by providing the 2005 tax return however, it has not been provided and I, the appellant no longer is in possession of tax returns or assessment going back to 2005.

#### ACTIONS OF CRA

- The inability to determine the exact amount of the principal amount despite many attempts to talk to CRA. I finally received a statement of account just before the court date of Feb 2024 after requesting it through CRA's lawyer. I have never received the requested 2005 income tax return that was requested.
- The inability to have CRA reply to my initial **Request for Taxpayer Relief** lodged in November 2022 in a timely manner and then receiving a CRA Collection Notice. This lack of ability to communicate with CRA while hefty interest charges continued to escalate, left me no choice but to apply to the tax court to try to have the issue dealt with.
- The inability to obtain a timely reply from CRA regarding the **Letter of Complaint** dated June 2023, all though being assured by CRA that the **Letter of Complaint** would result in a reply within 30 days as per CRA policy. When no reply was received after 90 days the I lodged a tax appeal with the Tax Court in the hope that a response would follow or a CRA agent would be assigned to the case. A call to the tax court resulted in them explaining that if I were to lodge a tax appeal it would result in a CRA agent being assigned to the case. THIS DID NOT HAPPEN.

Instead a CRA reply was received on September 18, 2023 that did not address any of the concerns listed in the **Letter of Complaint**. It only stated that I owed the money, confirmed they had confiscated my 2022 tax return, and that the **Request for Taxpayer Relief** would not be dealt with until after the **Notice of Appeal** was resolved. I have to date never

received a reply that addressed the items listed in my **Letter of Complaint** (see document # 7).

- The fact that CRA confiscated my 2022 tax return on May 9, 2023 although **A Tax Court Appeal** was registered on May 3, 2023, in contravention of Taxpayers Bill of Rights #7 that states “You have the right not to pay personal tax amounts in dispute until you have had an impartial review by CRA or, if you have sent an appeal to the Tax Court of Canada, until that court has issued its decision.” On June 7, 2023 after escalating my call through five other CRA employees to complain about the confiscation, I was told they had no authority to help. I finally spoke to Tanya who put me on hold to talk to her supervisor (no name supplied) who reportedly told her that CRA had not opened their mail until May 10th and therefore I would not receive my refund despite the tax document registration of May 3, 2023.

## 2. INABILITY TO PAY OR FINANCIAL HARDSHIP

CRA states that interest relief may be considered.

“when a taxpayer’s demonstrated ability to pay requires an extended payment arrangement, consideration may be given to cancelling all or part of the interest for the period from when payments start until the amounts owing are paid, as long as the agreed payments are made on time and compliance with the act is maintained.”

OR

“when payment of the accumulate interest would cause a prolonged inability to provide necessities (financial hardship) such as food, medical care transportation or accommodation.”

I will be 72 years old on Oct 31, 2024. I have supplied CRA with my current financial position while I continue to work, and my financial position once I retire next year. I explained that I have no assets other than a small RIFF of approx. \$60,000 and that even with the income from my RIFF I would be required to live on less than \$30,000 a year once retired. The Relief Decision Letter received from CRA states that they could only consider my current financial position and not my future (retired) financial position, and then based their decision solely on my current income and did not address **ANY** of the other grounds regarding CRA misinformation, my inability to talk to them or have an agent assigned to my case, or the discrepancy in the figures supplied to the tax court versus the CRA statement of account.

The “Relief Decision for the Tax Year 2005” notes that they have agreed to reduce the interest calculation by removing the interest calculated on the debt between Jan 1, 2012 and Dec 31, 2015 but they do not inform me as to the amount of the decrease or the resulting amount owing. The letter only states that I should call CRA if I do not receive

the revision within 16 weeks and that the interest will continue to calculate in the meantime. In this letter I am instructed to call Ms. Chen to get clarification on anything in the letter. I tried to call her but could not understand her and she could not understand me due to a language barrier. She only instructed me to apply to a judicial review if I did not agree with letter or call CRA at the 800-959-8281 number as indicated in the letter. I called the 800 number listed in the letter and was told after waiting on the phone for 2.5 hours that my options were to wait the 16 weeks for the calculation, pay the debt in its entirety or apply for a judicial review.

**THIS APPLICATION IS SUPPORTED BY THE FOLLOWING ATTACHED DOCUMENTS: Most relevant items are highlighted in bold.**

	From	Title	Date	Details
1	<b>CRA to L. McMillan</b>	<b>Relief Decision for the Tax Year 2005</b>	<b>Aug 6, 2024</b>	<b>Review shows interest relief granted between Jan 1, 2012 and Dec 31, 2015 but no calculation of the resulting amount owing was provided.</b>
2	L. McMillan to CRA	(A) Request for Second Independent Review for Taxpayer Relief  (B) statement of income and expenses	Feb 22, 2024	Outlines grounds for interest relief request and supplied two income and expense statements (one current and one as appellant retires in 2025).
3	<b>CRA submission to tax court</b>	<b>Court Document 2022-28333(IT)I section 13.7</b>	<b>Feb 24, 2024</b>	<b>Stating “the Former Spouse’s participation in the CHT arrangement resulted in a net tax advantage of \$6,818.00 for the appellant”.</b>
4	L. McMillan to Minister	Letter to Minister of National Revenue	Feb 18, 2024	Asking for her assistance to have CRA respond taxpayer concerns and the resulting response from CRA.
5	<b>CRA to L. McMillan</b>	<b>CRA Statement of Account</b>	<b>Feb 2024</b>	<b>showing interest calculated on \$13,641.84 and only received after I complained to the CRA lawyer to ask him to</b>

				<b>intervene.</b>
6	CRA letter to L. McMillan	CRA Response to Letter of Complaint	Oct 23, 2023	Did not answer <b>any</b> of the issues in the Letter of Complaint. Only reiterated that I owned the money, and that interest would continue to accumulate.
7	L. McMillan to CRA	Letter of Complaint to CRA	June 11, 2023	Outline concerns with inability to communicate with CRA and to have an agent assigned to the case.
8	CRA to L. McMillan	CRA Notice of Collection	Oct 4, 2022	CRA threatening legal action when appellant cannot talk to them or have an agent assigned to the case.
9	<b>L. McMillan to Tax Court</b>	<b>Letter to tax court that includes a list of attempts to contact CRA</b>	<b>Various dates</b>	<b>Includes dates and attempts to contact CRA pg. 16</b>
10	<b>CRA to L. McMillan</b>	<b>Objections-Notice of Confirmation</b>	<b>Oct 26, 2022</b>	<b>Letter informing me that the CHT deduction had been decided by the supreme court in 2018.</b>
11	<b>From Tax Court</b>	<b>Letter</b>	<b>May 8, 2023</b>	<b>Showing that the tax proceeding was registered on May 3, 2024.</b>
12	CRA to Dave McMillan	Letter from CRA	June 14, 2008	Proof that CRA's correspondence was between D. McMillan (ex husband) and not L. McMillan as late as June 2008
13	CHT program communications	Various documents	various	Proof that Laila McMillan was not the donor as her name is not on any CHT documents.
14	From L. McMillan	List	various	List of periods of time where CRA should provide taxpayer interest relief with arguments for each period.

The applicant requests CRA to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of CRA to the applicant and to the Registry:

1. A copy of the appellant's 2005 tax return and accompanying tax assessment.
2. The calculation CRA used in the Court Document 2022-28333(IT)I section 13.7: wherein it states that "the Former Spouse's participation in the CHT arrangement resulted in a net tax advantage of **\$6,818.00** for the appellant" since his amount is contrary to the statement of account showing a principal amount of **\$13,641.84**.
3. A **clear** and **revised** statement that shows the total reduction and balance owing on the debt due to:
  - a) "Request for Second Independent Review for Taxpayer Relief" document where interest has been removed from January 1, 2012 and December 2015. (document #1)
  - b) the amounts noted in the Objections – Letter of Confirmation dated Oct 26, 2022 where interest is cancelled due to delays on the part of CRA between May 14, 2021 and June 3, 2022 AND a reassessment to allow the charitable donation tax credits for the cash donation of \$11,340 (document # 10)
  - c) Any other reduction on that debt that has taken place for any other reason since its inception in 2005.
4. The name and contact information of the agent who is or will be assigned to my case. (I have never received a name or been contacted by a CRA agent throughout the ordeal)

August 26, 2024



Laila McMillan  
306-324 Kingston Street, Victoria, BC, V8V 1V7  
250-88-8194  
lailamcmillan@shaw.ca or applicant)