

# BUDGET 2021: CRA TO BE GRANTED THE AUTHORITY TO COMPEL ORAL RESPONSES

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Budget 2021 proposes to grant the Canada Revenue Agency (the “**CRA**”) the authority to demand oral responses in the course of an audit. The proposed measure will apply to audits undertaken under a number of statutes, including the *Income Tax Act* (the “**Tax Act**”), the *Excise Tax Act*, the *Excise Act, 2001*, the *Air Travellers Security Charge Act* and Part 1 of the *Greenhouse Gas Pollution Pricing Act*, and is being introduced in response to the judgment rendered by the Federal Court of Appeal in *Canada (National Revenue) v. Cameco Corporation* [1].

Under the Tax Act, the CRA has the authority to audit taxpayers and otherwise ensure compliance with the statute. Paragraphs 231.1(1)(c) and (d) of the Tax Act currently provide that a CRA official may, at any reasonable time, for any purpose related to the administration or enforcement of the Tax Act:

- enter any premises where a business is carried on, any property is kept, anything is done in connection with a business or any books or records are or should be kept, and
- require the owner or manager of the property or business and any other person at the premises to give the CRA official all reasonable assistance and answer all proper questions relating to the administration or enforcement of the Tax Act and, for this purpose, require the owner or manager to attend at the premises with the CRA official.

Budget 2021 proposes statutory amendments that will expand the audit authority of CRA officials and will specifically authorize a CRA official to require the owner, manager or any other person on the premises of a taxpayer to answer all proper questions **orally or in writing, in any form specified by the CRA auditor**.

The proposed amendments will place greater responsibility on taxpayers to provide information to CRA auditors in the form requested by the auditor. Nevertheless, taxpayers should continue to adhere to certain best practices, including the following:

- Taxpayers should generally only answer the questions that are posed by the CRA auditor.
- If a question from an auditor is unclear, the taxpayer should ask for clarification.
- Taxpayers should not speculate or guess. Taxpayers should only provide information that they are

confident is complete and accurate.

The proposed amendments to the audit authority of the CRA will take effect upon their enactment.

[1] *Canada (National Revenue) v. Cameco Corporation*, 2019 FCA 67 available online [here](#).

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### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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