

# Existing PSB Cases in Calgary

PCSI Meeting with Local Calgary Lawyer  
Summary Notes

## Details of the Cases:

This is information learned from PCSI's meeting with the lawyer who is currently representing approximately 40 individual contractor cases. (All local)

Contractors fall within 2 groups:

- Field hands (approx. 28) – from various companies
- Corporate (approx. 12) – from 2 well known Oil & Gas companies in Calgary

All these individuals have been reassessed by CRA and have come to this lawyer individually (40 different cases)

- Tax years included: 2012\* & 2013\*
- Minimum owing: \$125,000/case

In the tax years for which they were assessed each contractor was:

- Taxed corporately at 40%
- Denied small business expenses
- Denied spousal income
- Denied small business tax deductions
- Reassessed on the income that was paid to themselves personally

And once the CRA determines the final assessment number then they will add the appropriate interest and penalties owed.

Status of all the cases:

- No official court case will come from any one of these cases
- Recognize they are all "guilty" and going to tax court is not an option
- Lawyer is currently negotiating directly with CRA; seeking time to pay back money owing, or claim bankruptcy

Status of the contractors:

- Lawyer is predicting that as many as 50% will file for bankruptcy
- Lawyer has not heard from 8 of the other contractors for some time and thinks they may have taken jobs overseas to avoid the situation

\*The tax years in question were before the Dependent Contractor Case was upheld by the Ontario Supreme Court in 2015.

## Other Key Learnings:

Many of these contractors had reached out to their accountants with concern after hearing about the case outlined below, only to receive an assessment letter from CRA in the mail days later.

### **G & J MUIRHEAD HOLDINGS LTD. and HER MAJESTY THE QUEEN**

- **Place of hearing:** Edmonton, Alberta
- **Date:** February 13, 2014
- **Background:** In 2008, Muirhead Holdings was under contract to Harvest Operations Corp. (“Harvest”) to provide certain oil well site and facilities services. Muirhead Holdings had no other clients even though exclusivity was not required by Harvest. Muirhead Holdings has been reassessed on the basis that it carried on a “personal services business” and that it was entitled to only the limited deductions available to its so called “incorporated employee”.
- **Outcome:** The appeal from the reassessment made under the *Income Tax Act* with respect to the Appellant’s 2008 taxation year was dismissed.

Strategies used by the CRA in targeting PSBs:

- CRA completes a payroll audit at a sizable company allowing them to scoop up a number of contractors in one foul swoop
- CRA goes after individual contractors to explain how they are justifying their Small Business Tax Deduction and then if assessed as a PSB, they look to whom the employer is

Factors why similar situations are not more commonly known:

- The Employer/Company may not even know that their contractors have been reassessed
- These contractors are not willing to share this situation with anyone as they do NOT want to be blackballed in the industry. (for being on the CRA’s radar)

## CONTACT US

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