

## Some short answers / rebuttals to common tax myths

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The study and practice of tax is tough. I have said it before and I'll say it again, I believe that tax is one of the most difficult areas of practice in existence.

In my many years of being a tax specialist, there have been no shortages of "tax myths" that I have run across and dealt with in practice. Here are my answers / rebuttals to some of the more popular ones:

1. Yes, the imposition of income tax in Canada IS legal in Canada and anyone who states otherwise is leading you down the wrong path.
2. No, the Canada Revenue Agency (the "CRA") has not accepted your filing positions simply because you received a notice of assessment. The CRA generally has three years, with many exceptions that can extend this time, from the date of the notice of assessment to review and make changes to your return. We talk generally about this topic in one of our recent blogs [Filing On The Basis Of Proposed Tax Legislation](#).
3. No, the CRA does not "allow" say \$10,000 of salaries to be paid to minor family members. The law provides that only reasonable salaries in the circumstances with a business purpose are deductible to the business.
4. No, you can't avoid tax on death by simply gifting property to the next generation. There are taxes that can arise, such as capital gains taxes, by virtue of such property being deemed to have been disposed of at fair market value. If you're a US citizen, then US gift tax might apply.
5. So, someone is saying that if you buy a charitable tax shelter you will be able to save more in taxes than the actual cost of the "investment" that will be "donated"? Dream on... if it's too good to be true it likely is. The CRA has been successfully attacking charitable tax shelters for years. The CRA has [written](#) on this often.
6. So you're buying a vacation property and someone has told you that you can save a lot of tax by purchasing it through a corporation? Get some advice on this... such a "plan" is usually ripe for disaster. [Read](#) what we've written on this.
7. So you're a US citizen resident in Canada and you're not compliant with your US tax filings. "*How will they find me?*" or "*The US has bigger fish to fry than me!*" are your mantras? Well, your mantras are about to become very challenged. The US is [aggressively](#) trying to find you and there's a good chance they will... especially when [FATCA](#) comes into force.
8. So someone has told you that you don't pay Canadian tax on investment earnings on offshore bank accounts. Wrong... dead wrong. As a Canadian resident, you must pay income tax on your world-wide income. You may also have reporting obligations on your foreign assets as discussed below.
9. So you think the disclosure of foreign assets does not include US securities like Microsoft, Apple, Cisco, etc. right? Wrong. It does. The definition of "specified foreign property" in subsection 233.3(1) of the *Income Tax Act* (the "Act") (which is the section that requires foreign property disclosure by virtue of the requirement to file prescribed form T1135) specifically includes a share of the capital stock of a non-resident corporation. We have [previously](#) written about this.
10. So you've lived in a house that you just constructed or otherwise acquired for just one day since

someone has told you that if you live it in for a day it will be considered your principal residence and thus any gain realized on a sale will be tax free... right? If it was only that simple. The definition of “principal residence” in section 54 of the Act is very lengthy and requires very detailed conditions to be met. One of the requirements is that the housing unit must have been “ordinarily inhabited” in the year by the taxpayer, the taxpayer’s spouse or common law partner or by a child of the taxpayer. Will one day occupancy meet the test of being “ordinarily inhabited”? Each situation will need to be reviewed for the facts and circumstances but it would be highly unlikely that one day occupancy would meet the test of being ordinarily inhabited.

The CRA is also aware of tax myths and has recently published a good [Tax Alert](#).

The bottom line is this... tax is tough. Be very wary of accepting tax advice from someone who does not practice in the area.