Can an Auditor Compel a Taxpayer to Create Documents?

November 11, 2019

In the *Minister of National Revenue* v. *Amdocs Canadian Managed Services Inc.* 2015 FC 1234, it was contemplated whether or not the Minister of National Revenue (Minister) could issue a compliance order to a taxpayer, compelling the taxpayer to create and provide information pursuant to section 231.7 of the *Income Tax Act* (ITA) when the taxpayer had proven that it did not possess such information.

Facts

Amdocs Canadian Managed Services Inc. (ACMS) was a Canadian taxpayer, incorporated under the *Canada Business Corporations Act,* and was a member of the Amdocs Group, a multinational corporation with establishments across the world.

In 2013, the Canadian Revenue Agency (CRA) initiated a transfer-pricing audit on ACMS. In light of this audit, the CRA issued numerous queries, of which three represented grounds for a compliance order. These three queries, which became the subject of the dispute in question, were as follows:

- **Query 1:** request for a detailed organizational chart for each of the Amdocs Group entities involved in the intercompany transactions with ACMS;
- **Query 2:** request for financial statements and detailed working papers containing the details of cost pools involving ACMS; and
- **Query 3:** request for the filing of financial statements for Amdocs Inc. and detailed working papers to support back office charges.

Federal Court Decision

The Minister brought these queries before the Federal Court as the Minister deemed the documents provided by ACMS were insufficient. However, as evidenced by several correspondences between ACMS and the Minister, ACMS exercised significant efforts and complied to the best of their abilities with the CRA’s requests for information, by handing over the documents they had on hand in response to the queries.

The Court stated that the Minister has the entire prerogative to determine the scope of the audit, as well as the documents needed to do so. The Minister may also ask for additional details if they so please.

Furthermore, the judge concluded that generally, taxpayers such as ACMS are required to provide information in response to the CRA queries. However, in cases where the CRA is requesting documents that do not exist or are not in the taxpayer's possession, exceptions may apply. In the case brought to the Court, the exception of subsection 231.5(2) ITA applied when ACMS was unable to satisfy all of the CRA's requests. ACMS fulfilled its duties accordingly by making reasonable efforts to acquire the documentation in question and provided precisions when it could. The Court ruled that the Minister could not expect ACMS to create the missing documents in answer to their queries.

The Minister's application for a compliance order was therefore dismissed.

Takeaway

Though the CRA has the complete discretion to establish the scope of the audit and the required documents to conduct such an audit, a taxpayer is not expected to create new documents for the purpose of an audit. Providing the documents on hand as well as giving precisions in good faith satisfy the taxpayer's legislative duty to answer the CRA's queries.

By

Joseph (Hovsep) Takhmizdjian, Noah Weinstein

Expertise

Tax

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.