



## **Management Response and Action Plan**

### **Evaluation of the Tax Law Services Portfolio**

**Department of Justice Canada**

**MANAGEMENT RESPONSE AND ACTION PLAN**

**PROJECT TITLE:** Evaluation of the Tax Law Services Portfolio

**RESPONSIBILITY CENTRE:** Tax Law Services (TLS) Portfolio

Conclusions	Recommendations	Management Response	Action Plan	Responsible Manager (Title)	Planned Implementation Date
<p><u>Clarifying Roles and Responsibilities</u></p> <p>The evaluation identified some areas where a better understanding of roles and responsibilities between counsel and client officials is needed. The CRA is recognized as a legally astute client, but experiences the usual staff turnover. Consequently, the understanding of counsel's and CRA's roles may be a useful subject of continued professional development.</p> <p>The evaluation found some misunderstandings of the role of counsel in identifying, assessing and communicating legal risk, of the level of consultation to be expected on files where the resolution process is used, and of the division of roles on providing and acting on legal advice.</p>	<p><b>1. That the TLS Portfolio work with CRA officials to clarify respective departmental roles and responsibilities.</b></p>	<p>Agreed</p> <p>The Department of Justice's role for the entire Portfolio, including the Legal Services Unit, has changed in recent years with the establishment of a number of initiatives. The recent introduction of a resolution process is an example of this. Also, the CRA is going through a time of change. Under these circumstances, it is important to ensure that everyone's roles and responsibilities are well established and understood.</p>	<p>Discuss this recommendation with the CRA.</p> <p>Based on the outcomes from that discussion, and with CRA's agreement and involvement, develop courses of action that will address the recommendation.</p>	<p>ADAG TLS Portfolio</p>	<p>March 2014</p>
<p><u>Use of the Dispute Resolution (DR)</u></p> <p>The evaluation found that the percentage of litigation files settled through DR has not changed substantially over the period covered by the evaluation. The principal type</p>	<p><b>2. That the TLS Portfolio work with CRA to examine the feasibility of expanding the use of DR on appropriate files, including the use of the resolution process.</b></p>	<p>Agreed</p> <p>Our analysis demonstrates the effectiveness of early dispute resolution. That analysis also establishes</p>	<p>Discuss this recommendation with the Appeals Branch.</p> <p>With their agreement and involvement, develop and implement a plan of action that will address the</p>	<p>ADAG TLS Portfolio</p>	<p>March 2014</p>

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<p>of DR process used is negotiation, with very little use of other methods such as mediation. There may be other DR options for the TLS Portfolio and CRA to consider to try to settle files.</p> <p>The resolution process was introduced to streamline and expedite the resolution of low-risk, low-impact files that are not expected to create legal precedents impacting tax law. This process gives counsel more discretion in how to handle the file and limits the need to consult with CRA. The evaluation found that this process has the potential to reduce costs on these files, but it is currently having a limited impact given the relatively small number of files that meet the criteria for this process. The practice in handling these files is uneven, and more communication by the TLS Portfolio with CRA and a more consistent practice by counsel might assist in the adoption of this process, and possibly a consideration of an expansion of its use for a greater number of files.</p>		<p>the importance of a simple, effective process. Moreover, we have already approached the CRA for expanding the current process.</p>	<p>recommendation.</p>		
<p><u>Use of Paralegals</u></p> <p>The evaluation concluded that the Portfolio is targeting its legal resources based on the risk and complexity of the file with the intention of minimizing cost and increasing efficiency.</p>	<p><b>3. That the TLS Portfolio assess the feasibility of making increased use of paralegals as a means of increasing cost efficiency.</b></p>	<p>Agreed.</p> <p>Distribution of work based on type of duties to be performed and their complexity is an aspect of effectiveness that is key to our legal service delivery.</p>	<p>Review the findings from the previously conducted analysis.</p> <p>Discuss those findings with directors.</p>	<p>ADAG TLS Portfolio</p>	<p>December 2013</p>

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<p>The Portfolio has increased its use of paralegals on files, but as a proportion of hours spent on legal services, paralegal time has remained fairly constant about 4-5% on advisory files and 10-11% on litigation files. Paralegals account for 44% of the total legal service hours for low complexity litigation files. Since the proportion of paralegal time has not changed over the evaluation period, the Portfolio could consider a study on whether it is optimizing its use of paralegals on files. If it considers an increase of the use of paralegals to be a source of efficiency and cost savings, a more detailed assessment of paralegal use could be beneficial for the Portfolio management.</p>		<p>Moreover, several years ago, the Portfolio conducted an analysis on, among other things, all the work that can be done by a paralegal on the efficiency measures relating to their work and on paralegals' development. The findings from that study were then presented to the managers.</p>	<p>Include the findings in our integrated human resource planning, taking the current budgetary constraints into account.</p>		
<p><u>Information Technology</u></p> <p>In general, the evaluation found that the TLS Portfolio is falling behind the private sector in terms of available technology to support the delivery of legal services.</p> <p>The evaluation concluded that the use of a software that can handle e-discovery is not widespread within the Portfolio. There are several reasons for this including the fact that the software currently available in the Portfolio is outdated, and has resulted in litigators being unable to read the e-discovery data disclosed by opposing counsel.</p>	<p><b>4. That the TLS Portfolio provide the results of this evaluation to the Information Solutions Branch and present these findings at Management Committee with respect to available technology that would support the more efficient delivery of legal services.</b></p>	<p>Agreed</p> <p>The Portfolio has already contacted the Information Solutions Branch to obtain the technical and technological support required for providing its training on a national basis through video communication software like Skype. Access to other technological tools could also enable greater efficiency in delivering our services.</p>	<p>Present this recommendation to the Director of Information Solutions.</p> <p>Establish a joint analysis plan.</p> <p>Jointly present the findings from the analysis to the Management Committee and/or Executive Committee.</p>	<p>ADAG    TLS Portfolio</p>	<p>March 2014</p>

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<p>Moreover, increased access to video-conferencing facilities, updated software and electronic access to work-related legal information, (such as the <i>Income Tax Act</i> on mobile devices), would support counsel in providing legal services.</p> <p>Computers currently being used by counsel have limited capability to support webinars. Given that the current cap on travel limits counsel's ability to attend tax conferences or off-site training, the Portfolio should consider technological tools such as webinars, videos, etc. to increase their legal staff's access to training opportunities.</p>					
<p><u>Training</u></p> <p>The evaluation found that Portfolio counsel at the more senior levels (over 5 years) reported that current training opportunities are not very useful in managing their work. This suggests that some training gaps for counsel who are interested in enhancing their career opportunities may exist. Given that one of the key challenges for the Portfolio is the loss of senior counsel, development of more advanced training focused on the needs of these counsel would be useful.</p>	<p><b>5. That the Portfolio examine the training needs of more senior counsel working in the Portfolio, and develop training opportunities to meet these needs.</b></p>	<p>Agreed.</p> <p>Training is a priority for the Portfolio, and we are committed to fostering an environment that favours and facilitates continuous learning and professional development for all our lawyers.</p>	<p>The managers will identify the training needs of their more senior lawyers, particularly through the discussions they will have with them as part of the performance evaluation process.</p> <p>The needs thus identified will be conveyed to the Portfolio's Professional Development Coordinator. He will identify opportunities for addressing those needs and incorporate the selected options into the Portfolio's training program.</p>	<p>ADAG TLS Portfolio</p>	<p>December 2013</p>

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<p>The TLS Portfolio is in the process of updating its national training program. It already tracks some statistics related to training provided to counsel. It would also be useful for the Portfolio to track statistics on training provided to CRA employees. Ideally, course evaluation forms should be distributed to all course participants. Collection and analysis of this information would support decision making about future courses and support future evaluations.</p>	<p><b>6. That the TLS Portfolio systematically collect information about the training provided to Portfolio legal counsel and CRA clients, including information about the quality and usefulness of the training.</b></p>	<p>Agreed.</p> <p>We have already begun gathering all the information pertaining to the training provided within the Portfolio and are about to implement a similar mechanism for training given at the CRA.</p>	<p>Present the data pertaining to internally provided training to the National Board of Directors in May 2013.</p> <p>Establish a system requiring information to be conveyed to the Professional Development Coordinator regarding the training provided by each Portfolio office to the CRA and compile that data.</p> <p>Introduce an evaluation form for all training given internally or at the client's location.</p>		<p>December 2013</p>
<p><u>iCase Data</u></p> <p>The evaluation identified several areas where additional iCase data could be useful to the TLS Portfolio in the management of and reporting on their legal services.</p> <p>TLS Portfolio legal work contributes to the recoupment of taxes owed. It contributes to a source of government revenue. Ideally, a cost-benefit analysis would weigh the cost of providing legal services compared with the amount of taxes recovered. The data required for such a cost-benefit analysis are not readily</p>	<p><b>7. That the TLS Portfolio regularly track and report on the outcomes of litigation files (i.e., either judgement or settlement amounts) and identify which files can appropriately be managed on a cost-benefit basis.</b></p>	<p>Agreed</p> <p>Although a cost-benefit approach may be appropriate in relation to certain litigation files, for example in some collections and civil litigation files, it cannot be used in tax appeal files. This is because the Minister of National Revenue has a statutory duty to assess each taxpayer in accordance with the law, and these files can only be settled in accordance with the law.</p>	<p>Consider the different information available in iCase and determine how we can, in our performance framework, maximize the use of that information, especially in a cost/benefit analysis objective.</p>	<p>ADAG TLS Portfolio</p>	<p>October 2013</p>

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<p>available, as the CRA is responsible for the collection of court judgments or settlements.</p> <p>Instead, a report of the outcomes of litigation files (either judgement or settlement amounts) could support a cost-benefit analysis of appropriate litigation files.</p> <p>Although the Department has not yet standardized a legal risk management (LRM) grid for advisory files, it would be useful for the TLS Portfolio to record legal risk assessments and re-assessments on all portfolio legal files, including advisory files.</p>	<p><b>8. That the TLS Portfolio record and track legal risk on appropriate advisory files in iCase using available LRM tools.</b></p>	<p>The Portfolio will identify which files can appropriately be managed on a cost-benefit basis and will regularly track the amount awarded or settlement amounts on litigation files.</p> <p>Moreover, the Portfolio regularly does performance reports geared to the operational reality of the Portfolio and the CRA.</p> <p>Agreed</p> <p>Technologically, the Departmental Legal Services Unit migrated to iCase during the year 2012, which will help implement this recommendation.</p> <p>Also, the Department will soon implement its new legal risk grid and it can then be introduced in the Departmental Legal Services Unit.</p>	<p>At the time of departmental introduction, an implementation plan will be carried out for the Departmental Legal Services Unit.</p>		<p>March 2014</p>

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<p><u>Strategies to Reduce Legal Costs</u></p> <p>Managing the demand for legal services and improving the efficiency and economy of the delivery of those services are joint responsibilities of the TLS Portfolio and the CRA. The evaluation identified some areas through which legal costs could be reduced in collaboration with the CRA, recognizing resource and other implications on both sides.</p> <p>The Portfolio has already undertaken some knowledge management activities and developed some standardized tools for its clients. The TLS Portfolio could assist the CRA in clarifying when to seek legal advice and how to make clear and well-defined legal requests that do not lead to unnecessary expenditure of legal resources. Consideration could be given to expand the types of on-line tools, templates and checklists that could provide such guidance.</p> <p>In addition, the evaluation found that there may be opportunities for the TLS Portfolio to work with the CRA to develop strategies to improve the practices involved in the preparation of litigation files.</p>	<p><b>9. That the TLS Portfolio work with the CRA to explore strategies to reduce the cost of legal services, and improve the efficient and effective delivery of legal services</b></p>	<p>Agreed.</p> <p>During preparation of the 2012 Economic Action Plan, the Portfolio worked with the CRA and identified several strategies for reducing legal service costs, which include legislative amendments, a reduction in the number of files sent by the CRA and a number of efficiency measures.</p> <p>Performance indicators were also developed and presented to the CRA.</p>	<p>The Tax Law Services Portfolio will continue to introduce the measures for which it is responsible.</p> <p>The Portfolio will continue to introduce and monitor those measures, using the performance indicators already developed and presented to the CRA.</p>	<p>ADAG TLS Portfolio</p>	<p>March 2015</p>