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Tax case dropped after CRA decides prosecution makes no cents

By Bradley Bouzane, August 17, 2010

The Canada Revenue Agency (CRA) recently stayed charges against New Brunswick anti-abortion activist David T. Little, who failed to file income tax returns for nearly a decade on moral grounds and led prosecutors through years of proceedings.

Photograph by: Fotolia, Fotolia

Having no income is apparently one way to get the tax man off your back.

The Canada Revenue Agency (CRA) recently stayed charges against New Brunswick anti-abortion activist David T. Little, who failed to file income tax returns for nearly a decade on moral grounds and led prosecutors through years of proceedings.

The prosecution in the case said Little has no taxable income and tax lawyer David Piccolo said that may be the main reasoning behind the decision to stay the charges and should not open the door to similar cases.

"CRA very much works on a dollars and cents basis, so why spend money (on legal proceedings) to not collect money back?" Piccolo, a Toronto-based lawyer, said Tuesday. "I think (CRA) looks at it as a poor return on investment.

"I think if there was a significant, or even a reasonable amount of tax owing, that the CRA would have pursued him . . . Had this case gone forward, it certainly would have just been on the principle than simply looking at it from a dollars and cents perspective, which CRA has to do."

Last week, the federal attorney general stayed an income tax charge against Little, a 66-year-old father of eight who opposes Canada's tax-funded abortion options.

Little has vowed publicly never to file another tax return as long as there's tax-funded abortion in Canada.

N.B. provincial court Judge Julian Dickson was set to hear Little's plea last week on a

charge against him brought by the CRA for failing to comply with a judge's order to file income tax returns for 2000-02.

However, the judge instead announced that he had received word that a stay had been issued by the federal government. A stay halts the prosecution of the charge.

Keith Ward, senior counsel with the Atlantic region office of the Public Prosecution Service of Canada and the lead federal prosecutor on Little's case, said he made the decision to stay the charge.

"It's for reasons of economy," said Ward, who also said Little has no taxable income. "He was essentially going to run the same defence . . . He can easily manipulate the system all the way up to the Supreme Court of Canada level."

When Little was charged for failing to file tax returns for 2000-2002, his defence was that it violated his right of freedom of religion.

During his April court appearance, Little made it clear he would mount a similar defence on the new charge of failing to comply with a judge's order.

Ward said it was decided federal resources should be dedicated to more important matters. Citing the same reasoning, Piccolo said the fact the matter has gone on for as long as it has is puzzling.

"It's surprising the CRA would pursue somebody who they know doesn't have taxable income," he said. "It's one thing to go and prosecute somebody on principle, but generally, resources are allocated toward taxpayers who have amounts outstanding."

CRA spokeswoman Caitlin Workman said Little's case will have no bearing on how matters are dealt within the future.

"Decisions made on any one particular case will not impact any cases of tax evasion or tax fraud under investigation by the CRA," said Workman, who would not discuss the specifics of Little's legal case. "The CRA will continue with work to not only identify tax offences, but to correct them and keep the system fair for everybody who pays their taxes properly."

In 2008/09, more than 787,000 individuals or corporations were found to have not filed their tax returns on time.

CRA reported 323 convictions for the more serious infractions of tax evasion or tax fraud that tax year, resulting in a total of more than \$29 million in fines and more than 81 years in prison.

Of all evasion and fraud cases prosecuted in that fiscal year, 98 per cent resulted in convictions, CRA said.

So far in the 2009/10 fiscal year, some 241 convictions have been made across Canada for failure to file tax returns.

In April, Little was ordered to serve 66 days in jail after refusing to pay fines for previous tax charges.

Chief provincial court Judge Leslie Jackson convicted Little in November 2007 of failing

to file income-tax returns for 2000, 2001 and 2002 and fined him \$3,000. Jackson further ordered him to file his outstanding tax returns.

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