

**JUST A BEGINNING**

**A Caseflow Management Review  
of The Tax Court of Canada  
Income Tax Cases**

Institute for Court Management  
Court Executive Development Program  
Phase III Project  
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Mary MacMillan, let me take a few minutes to say how valuable and important your help was. Thank you Miss Mary!

To my co-workers, thank you for your participation in completing the self-assessment questionnaire. Your everyday confidence in our Court processes and your important contribution to a successful caseflow management at the Tax Court of Canada is essential. Please continue to do so. Together we are stronger.

I cannot end my acknowledgments without mentioning the continual support of my dear friends at the Court and my loving family. I need not name you all as you know who you are. Your patience and understanding meant a great deal to me. Thank you for being there when it really counts. You mean the world to me. “Merci beaucoup.”

## **ABSTRACT**

A new case management system project is under development and is expected to be implemented within the next three years in the Tax Court of Canada. An important part of this project is to review and analyze our current practices, and to improve or develop a new case management system, which could be used by all Courts being served by the Courts Administration Service.

An automated case management system known as the Appeals System Plus (“ASP”) was implemented a few years ago in the Tax Court of Canada. Although it can provide statistical reports and data on case processing, a caseflow management review has never been completed to evaluate its performance. The goal of this research paper was to review and analyze the caseflow practices of the Tax Court, and to recommend improvements, if determined necessary, in order to be more efficient and improve the overall quality of services delivered nationwide.

It is imperative that a thorough review be made to evaluate our current system. I start with a brief history of the challenges which face the Tax Court now that its services have been amalgamated with those of the Federal Courts, and how important it is that we review our own system’s strengths and weaknesses before a uniform case management system is imposed on all. We must be able to express what we will require the new case management system to provide. We can only demonstrate what is needed if we first analyze our present system, and identify its strengths and weaknesses.

My focus in this research paper, although originally was intended to include a caseflow management review of the Income Tax cases, the Goods and Services Tax cases and the Employment Insurance

cases, was narrowed down to Income Tax cases only. In 2003, Income Tax cases represented 62.6 % of all cases filed at the Tax Court of Canada and in 2004, they represented 61.5 % of the caseload. This has enabled me to concentrate and give more attention to specific data and analysis, rather than obtaining excessive and perhaps redundant information and losing focus of the task at hand.

A statistical report was first requested from our Information Management System. This report indicated that 4181 appeals were filed in the Tax Court of Canada in 2004 and 4829 appeals were disposed of within the same year. More than half of the appeals filed were informal and general income tax appeals. I therefore concentrated my efforts and research on these types of cases.

Through review and research of the *Statutes* and *Rules*, timetables describing the standard caseflow processes of both the Informal Procedure and General Procedure *Rules* have been developed and compared to timetables which describe the actual caseflow processes determined by the review of two study samples, 50 Informal Procedure cases and 50 General Procedure cases. The comparison has revealed that the Court is processing some of its Informal Procedure Tax cases effectively while indicating that improvements need to be brought to our present case processing standards for General Procedure Tax cases.

Questionnaires completed by study groups indicate that the Court needs to develop some performance measures. Clear expectations must be transmitted to the Court's judges and staff in order for all to work towards the same goals. Reevaluation of our Court's performance should be done regularly in order to measure our success and improve our weaknesses. Moreover, much more research; review and analysis will have to be completed in order to improve the Court's overall

performance. Recommendations to the Best Practices and Procedures Directorate will be made. Appropriate tools are required to be developed in order to better measure our successes and areas for improvements and much more work, time and energy will need to be invested in such a special and important project. The outcome of this paper will add some basis for the development of a comprehensive plan of action and the recommendations must be considered at the development stage of the Court's new case management system. Our success depends on it.

## **INTRODUCTION**

On July 2, 2003, the *Courts Administration Service Act* came into force. This *Act* formed a new organization known as the Courts Administration Service. The administrative and registry services of the Tax Court of Canada, Federal Court of Appeal, Federal Court, and Court Martial Appeal Court of Canada were consolidated by this *Act*. Although the Tax Court of Canada has been in existence since 1983, it also became a Superior Court of Record, with the coming into force of this new *Act*.

Since the consolidation of these services, the goals and objectives of the organization have been ongoing in different phases, such as cross-training employees from the four former organizations, harmonizing and updating policies, and standardizing work tools, such as computer applications and financial systems. In 2005-2006, the process will advance to a "transformation" phase, which will involve a broader application of technology in the registries, and enhancement of access to the Courts.<sup>1</sup>

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<sup>1</sup> Courts Administrative Service Estimates 2004-2005, Part III – Report on Plans and Priorities, Page 9.

The *Courts Administrative Service 2005-2006 Estimates* identify, as an organizational priority, to improve service delivery with a key initiative of developing a new case management system which would be used by the Tax Court and the other three Federal Courts. It is also stated under the rationale behind this priority that the Courts Administrative Service is committed to providing its services in the most efficient, effective and economic manner and to attaining excellence in client service standards *vis-à-vis* the judiciary, litigants, and the general public.<sup>2</sup>

The Tax Court of Canada is responsible for effectively managing its workload, for disposing of cases without delay, and for effectively delivering quality service to the public. To ensure that the Court satisfies these responsibilities, it must be conscious of its caseload management performance.

The Court's main focus of appeals arises under the *Income Tax Act*. Any taxpayer, who is in disagreement with an assessment concerning the tax which must be paid on income, may file an objection to the Minister of National Revenue. The Canada Revenue Agency will review the objection, and issue a re-assessment, or a confirmation of the assessment at issue. A taxpayer may then, within ninety (90) days, appeal to the Tax Court of Canada. There is also a provision in the *Rules* which permits a taxpayer to apply within one hundred and eighty (180) days, for an extension of time to appeal at the Tax Court of Canada. Therefore, a matter which is ultimately appealed at the Tax Court of Canada may have been pending for a period of approximately two (2) years.

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<sup>2</sup> *Ibid*, Page 11.

As we have all heard before “justice delayed is justice denied”. The fact that the Court is dealing with cases that have been pending for some time, adds importance to how we must ensure that any case filed with the Court is processed as efficiently and expeditiously as possible.

A review of the Court’s operations in order to better improve our case processing system began with a study of the current *Acts* and *Rules* which govern our Court. The standards provided in the *Tax Court of Canada Act* and the *Rules of Procedure* will be compared to our current case processing times.

The caseload management review and evaluation of the Court’s performance will enable the Court to identify its strengths and weaknesses, work on its strengths and develop mechanisms to improve its case processing system where it lacks.

As a result of this research paper, I have come to a better understanding of our current processing time standards. I have identified areas where improvements can be implemented, and made suggestions to the Best Practices and Review Directorate for its consideration in the development process of a new case management system.

## **LITERATURE REVIEW**

Before I begin with the research aspect of this paper, a brief history of the “raison d’être” of the Tax Court of Canada is necessary. The Tax Court of Canada is a court of law and was established in 1983, pursuant to the *Tax Court of Canada Act* (section 3), with a view to dispensing justice in tax matters. The Court is independent of the Canada Customs and Revenue Agency, and all other

departments of the Government of Canada. The Tax Court is a superior court to which individuals and companies may appeal to settle disagreements with the Government of Canada on matters arising under legislation over which the Court has exclusive original jurisdiction. Most of the appeals made to the Court relate to income tax, goods and services tax, or employment insurance. The role of the Court's judges is to decide, for example, whether an appellant must pay a disputed amount of income tax.<sup>3</sup>

An extensive review was completed of the *Tax Court of Canada Act*, as well as the General Procedure *Rules* and Informal Procedure *Rules* which govern cases being processed at the Tax Court. The time standards imposed by the *Act* and *Rules* are an important factor in this research paper and their relevance are well described in the Findings section of this paper.

The use of the *How to Conduct a Caseflow Management Review, A Guide for Practitioners*<sup>4</sup> was also an important tool in order to evaluate our Court's performance. Using the sample questionnaires found in the Guide, although adapted to the Tax Court of Canada, was a tremendous help in the development and completion of this paper.

The CourTools and Trial Court Performance Measures developed by the National Center for State Courts also enabled the measuring of our Courts performance.<sup>5</sup> In particular, the CourTools have been determined as an essential part of the development and implementation of our new case management system and are recommended as an important factor to be considered by the Best Practice and Procedures Directorate. Furthermore, the overall performance of the Court as it is

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<sup>3</sup> Online: Tax Court of Canada – About the Court [http://www.tcc-cci.gc.ca/main\\_e.htm](http://www.tcc-cci.gc.ca/main_e.htm).

<sup>4</sup> Barry Mahoney et al, *How to Conduct a Caseflow Management Review, A Guide for Practitioners*, NCSC, 1994.

perceived by the Judges and court staff was an important aspect of this research paper. Ten key elements were assessed to describe our present level of performance. The common elements are described in detail in Mahoney et al., *Changing Times in Trial Courts* and are enumerated at the section entitled Self-Assessment Questionnaire of this paper. The results of the level of performance are also well documented and commented on in the same section.

## **METHODOLOGY**

My attention will be focused on the Court's functioning, based on the time standards identified in the *Act* and procedures which govern the Tax Court of Canada. An in-depth analysis will help to develop a timeline indicating the expected length in case processing times of both the informal procedure and the general procedure income tax cases before the Tax Court of Canada. Through a physical review of a sample of fifty (50) informal procedure appeals, and fifty (50) general procedure appeals, I am able to identify what the present time standards are and compare them to the time standards imposed by the *Act* and the *Rules of Procedure*. A survey of judicial staff and non-judicial staff was also completed in order to determine where the Court's performance excels, and where it can be improved.

A review of the time standards provided in the *Tax Court of Canada Act* and the informal procedure *Rules* was done in order to prepare a timeline which demonstrates the time cases should take from filing to disposition. A physical review of a sample of 50 informal procedure cases was completed in order to verify the process used and the actual time it took from filing to disposition. As a result, a timetable was prepared to demonstrate the actual caseflow process in order to compare it to the

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<sup>5</sup> National Center for State Courts, *CourTools - Trial Court Performance Measures*, 2005.

timeline as described by the *Act* and *Rules*. The sample of these 50 cases was determined by the following calculation: 1,616 informal appeals filed in 2004 divided by 50 equals 32.32. This determined that every 32<sup>nd</sup> appeal filed in 2004 would be inspected.

As with the informal procedure cases, the same review was completed for the general procedure appeals, including the time standards provided by the *Tax Court of Canada Act* and the general procedure *Rules*, which of course differ somewhat from the informal procedure *Rules*. For this reason, a physical review of 50 cases was also conducted. A further timetable was prepared to demonstrate the caseflow process in order to compare it to the guidelines provided in the *Act* and *Rules*. As with the informal procedure cases, the 50 general procedure cases to be reviewed were determined by the following calculation: 1,174 Tax Court of Canada General Procedure Income Tax cases divided by 50 (amount of cases) which equals 23.48. Therefore, every 23<sup>rd</sup> appeal filed under these *Rules* for the 2003 taxation year, was physically inspected.

A trial date certainty review using the same sampled cases (50 informals and 50 generals) was also reviewed and a table was developed to reflect the differences between the two procedures.

After considerable review of the Court's *Rules* and *Procedures*, and taking into account the time standards for case processing established, I was curious to find what the key players in the Court thought of its performance as to case processing. I prepared a questionnaire for the Judges of the Tax Court, see Appendix A for a copy, in order to get some idea of what they know, or ought to know, about the Court's caseflow process. This survey questionnaire was prepared in order to obtain the Judges views and perceptions as to their observations of the Court's overall performance

pertaining particularly to the caseflow process. This survey was distributed to 23 Judges. Only 9 Judges completed and returned the questionnaire (a response rate of 39%).

A self-assessment questionnaire was also prepared. It was distributed to two study samples. The first study sample was the same group of 23 Judges. In total, 39% of Judges completed the self-assessment questionnaire adapted from the *How to Conduct a Caseflow Management Review, A Guide for Practitioners*, which was a very useful tool. The questionnaire can be found at Appendix B. Some of the questions were modified and adjusted slightly in order to be more specific to the Tax Court, however without changing the key elements to be assessed. The second study sample consisted of 12 non-judicial Court staff. Eleven of the twelve questionnaires were completed (response rate 92%) and returned to me for evaluation. This self-assessment questionnaire was prepared in order to evaluate the Court's performance as it pertains to ten common elements, which are described in the Self-Assessment Questionnaire section of this paper. The results from both study samples have been compared.

A review of our current practices, paying attention to data, reviewing the time standards set by *Statutes* and *Rules* is an important aspect to determine where the Court can better improve its system, where matters may need to be addressed to the Rules Committee in order to enable the Court to process cases on a timelier basis. Of course, any suggestion to modify *Rules* of the Court must be presented to the Chief Justice of the Court, for his consideration and discussion with the members of the Rules Committee.

Although the Tax Court of Canada is an independent entity, it has very strong ties to the Department of Justice lawyers, as well as the specialized tax lawyers in the private sector. Any change to our procedures would ultimately affect the work processes of the legal field members. Members from

both private practice and the Department of Justice already form part of the Rules Committee, and would be included in any discussion proposing a review or amendment to any rule.

A caseflow management review, although very time-consuming, is an essential tool in order to examine our current processes, analyze them, and update our system, if necessary. The three main purposes of completing a caseflow management review, as determined by Barry Mahoney, in the *How to Conduct a Caseflow Management Review, A Guide for Practitioners*,<sup>6</sup> are as follows:

- 1) To describe the current situation with respect to caseloads and case processing in the Court, paying particular attention to data on case-processing times and pending caseloads;
- 2) To assess the effectiveness of the Court's structure and operational procedures in relation to key areas of caseflow management, and;
- 3) Through identification of strengths, weaknesses, and key problem areas, to lay the foundation for development of an action plan aimed at improving the Court's capacity to handle its caseload effectively.

## **FINDINGS**

### **STATISTICS**

Upon review of the statistical report (see Appendix C) it is clear that more than half of the Tax Court of Canada cases filed in 2004 were Income Tax cases. The total of 2620 cases out of 4181 were income tax cases filed under the General and Informal procedures. Because the majority,

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<sup>6</sup> Barry Mahoney et al, *How to Conduct a Caseflow Management Review, A Guide for Practitioners*, NCSC 1994, p. vii.

specifically 62% of the cases filed at the Court are income tax cases, I have chosen to concentrate my research on income tax cases only. General procedure appeals are of a more complex nature, and they usually take more than a year to process. I therefore reviewed the 2003 statistical report of cases filed and disposed of in 2003 (see Appendix D). This report indicated that 2787 cases out of 4524 cases were income tax cases. This represents 61.6 % of all cases being filed at the Court in 2003. The sample study for General Procedure appeals was therefore taken from the 2003 inventory of cases in order to be able to determine the length of time between filing to hearing which is approximately two years. Using the 2004 cases as a study group for General Procedure cases would not have permitted me to have an accurate picture of the actual time standards in place.

#### CASEFLOW REVIEW - Informal Procedure Income Tax Appeals

The Informal Procedure is intended to minimize the legal steps involved in the appeal process. For income tax appeals, the Informal Procedure is limited to cases in which the amount of federal tax and penalties in dispute for each taxation year, excluding interest, is \$12,000 or less.<sup>7</sup> Subsection 18.15 (4) of the *Tax Court of Canada Act* states that “all appeals referred to in section 18 shall be dealt with by the Court as informally and expeditiously as the circumstances and consideration of fairness permits”.<sup>8</sup> The *Tax Court of Canada Act* indicates that once an appeal has been instituted under the informal procedure, the Respondent (The Minister of National Revenue) has 60 days to file a Reply to the Notice of Appeal. However, this 60-day period may be extended on consent of the Appellant, or on application made to the Court before or after the expiration of the 60-day period. Furthermore, once consent from the other party has been filed, there is no time period specified

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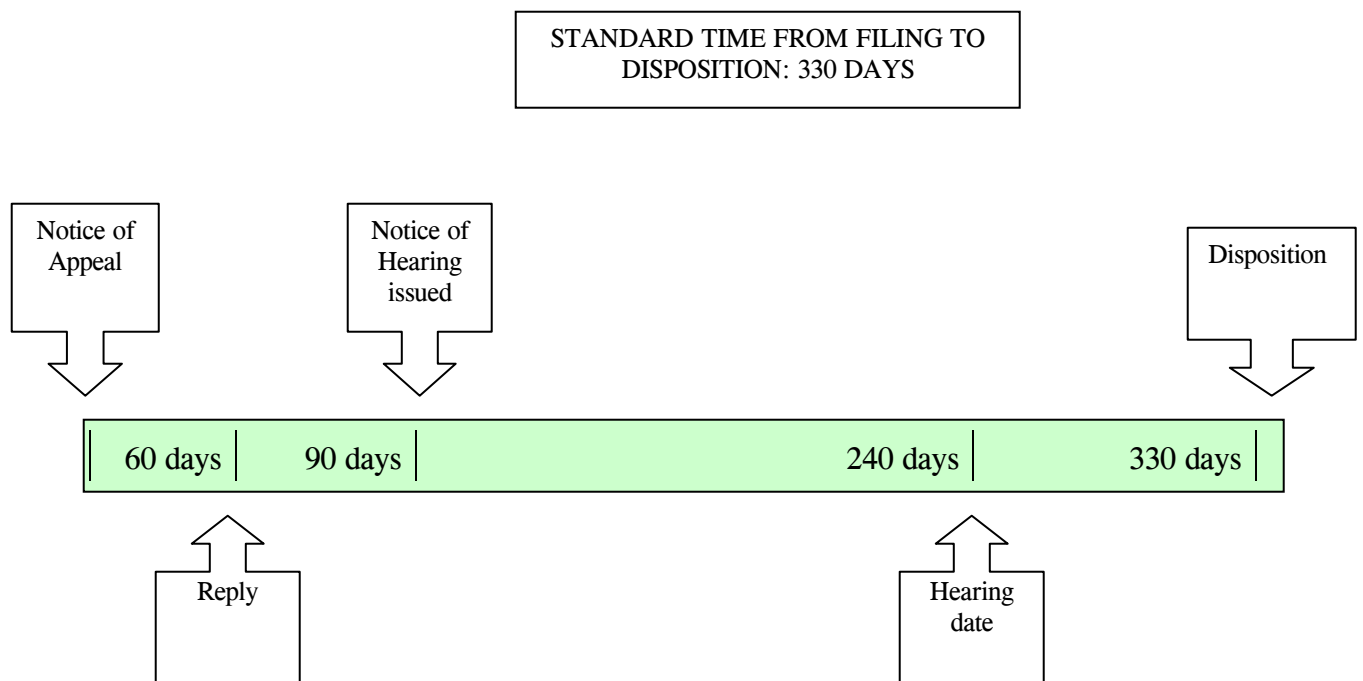
<sup>7</sup> Online: Tax Court of Canada – How to Appeal [http://www.tcc-cci.gc.ca/main\\_e.htm](http://www.tcc-cci.gc.ca/main_e.htm).

<sup>8</sup> Subsection 18.15(4) of the *Tax Court of Canada Act*.

either in the *Act* or the *Rules*, to ensure a Reply to Notice of Appeal is filed within a reasonable time limit. The Court, through its informal procedure *Rules*, intended to be more “flexible” to the parties filing appeals under this procedure. However, because this section of the *Act* permits the parties to file a consent with no specific time standard, this may in fact hinder the case processing time and affect the expeditiousness of a hearing to be scheduled, and an appeal finalized.

The timeline below shows the specific steps and days between each action to identify the time standard in days, as determined by the *Act* and Informal Procedure Rules for Income Tax cases.

CASEFLOW STANDARDS – INFORMAL IT CASES



The time standards included in the *Rules* and the *Act* provide that once a Reply to the Notice of Appeal is filed, the Court shall fix a date for hearing that is not later than 180 days after the last day on which the Minister of National Revenue must file a Reply.<sup>9</sup>

Ideally, an Informal Procedure appeal should then be heard within 240 days after a Notice of Appeal has been filed with the Court. Subsection 18.17(1) of the *Act* also indicates that where the Court is of the opinion that it would be impractical, in the circumstances, to fix a date for the hearing of an appeal within that period,<sup>10</sup> it shall fix a date for hearing of an appeal within 365 days after the last day for filing of the Reply.

A Notice of Hearing shall be sent to the parties not later than 30 days prior to the hearing date. This allows the parties sufficient time to prepare for an informal procedure appeal. The Hearings Coordinator usually communicates with the parties prior to the Notice of Hearing being sent, in order to verify availability and confirm the date of hearing. In turn, this helps minimize the number of requests for adjournments due to conflicts in availability. This is an internal practice which is, at present, not being followed by all Hearings Coordinators. However, it is a practice that has, in the specific geographical areas, minimized the requests for adjournment being received by the Court on the eve of a hearing date which, in turn, results in Court days not being utilized to full capacity.

Once an informal procedure appeal has been heard, the *Act* specifies that the Court shall, other than in exceptional circumstances, render judgment not later than ninety (90) days after the day on which the hearing is concluded. Therefore, an account of the time limits from filing to disposition imposed

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<sup>9</sup> Section 18.17 of the *Tax Court of Canada Act*.

<sup>10</sup> Subsection 18.17(1) of the *Tax Court of Canada Act*.

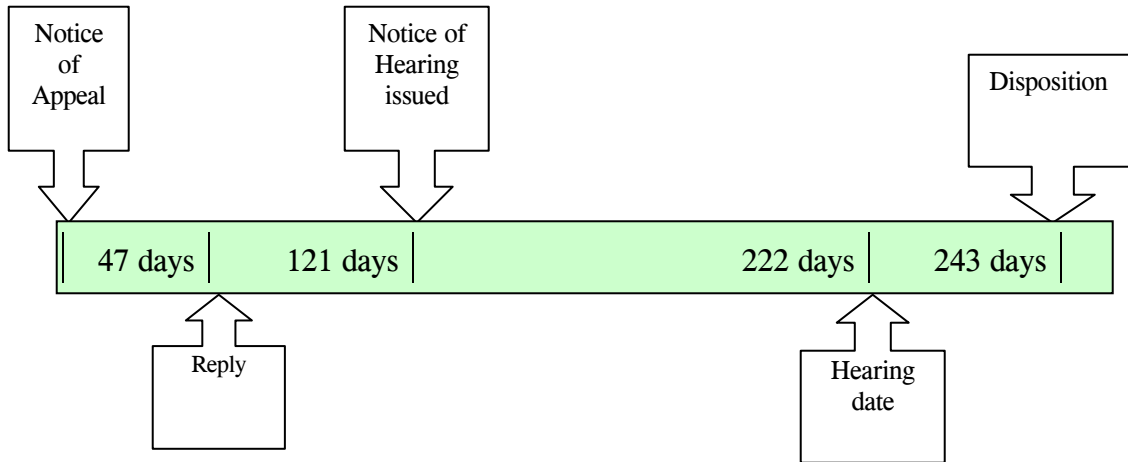
by the *Act* and the informal procedure *Rules*, the time standard from filing to disposition of an informal procedure appeal should be three hundred and thirty (330) days. A review of a sample of 50 informal procedure appeals which were filed and disposed of in 2004 was completed in order to determine the actual time standard being applied by the Court. (See Appendix F – 2004 Study Sample)

### ACTUAL PERFORMANCE

As can be viewed in the Actual Caseflow Chart which follows, the Court is processing some of its informal procedure cases, actually 72% of its cases very effectively while the other 28% of cases are over standard. Of the fifty (50) cases, thirty six (36) were disposed of within the same year. The remaining fourteen (14) cases are divided as follows: ten (10) have yet to be heard; one (1) has been heard and judgment is reserved; and three (3) are presently scheduled to be heard in the near future. Of the ten (10) cases which have not yet been heard, four (4) were previously scheduled to be heard but have been adjourned and must be rescheduled. The other six (6) cases have not been scheduled once.

A timeline for the remainder of the cases (28%) that have not yet been disposed of can therefore not be established. However, the median age of these cases at the time of measurement has been determined to be 19 months. These cases form part of the pending caseload which is over the 1 year standard. This ultimately affects the Court's level of performance.

ACTUAL CASEFLOW – INFORMAL IT CASES (72%)



STATISTICS FROM A SAMPLE OF 50 INFORMAL PROCEDURE 2004 APPEALS

TIME FROM FILING TO DISPOSITION OF

36 CASES DISPOSED OF WITHIN THE STANDARD: 243 DAYS

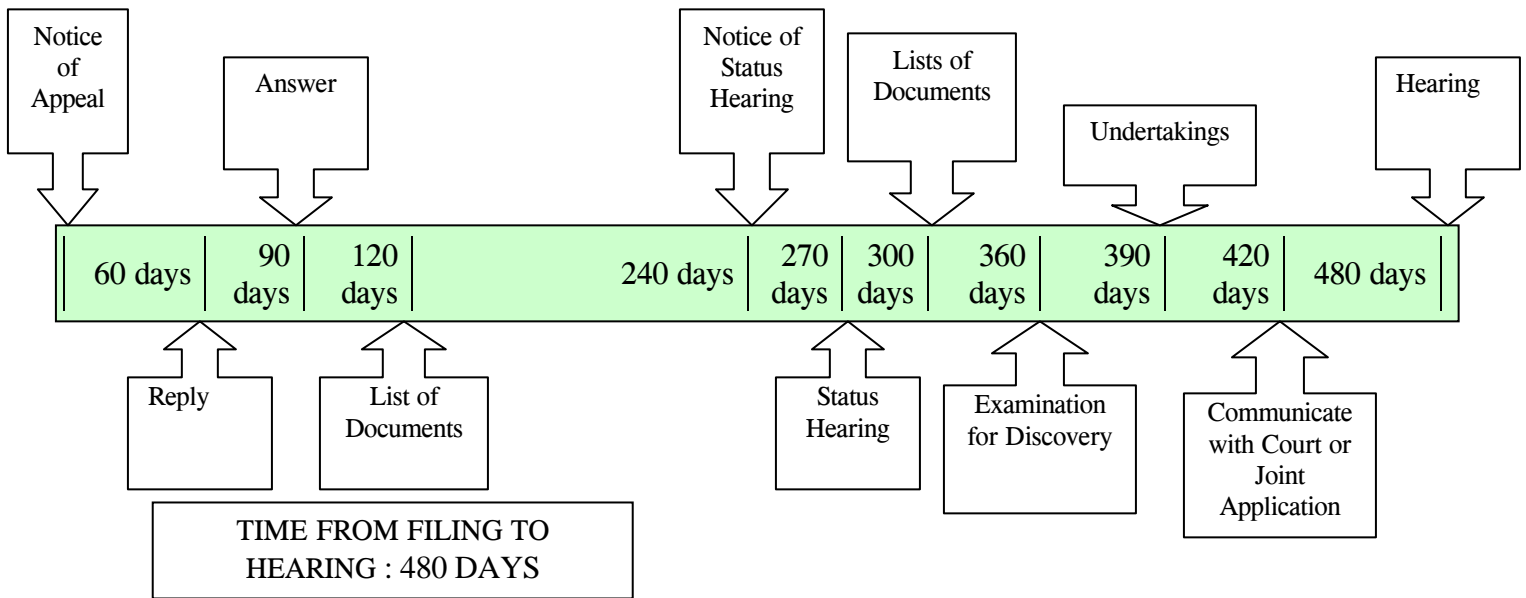
**NOTE: 28% OF THE SAMPLED CASES WERE OVER STANDARD**

CASEFLOW REVIEW - General Procedure Income Tax Appeals

Under this procedure, formal court proceedings are closely followed and many procedural rules are applied throughout the appeal process.<sup>11</sup> The general procedure *Rules* apply to appeals wherein the amount at issue is over \$12,000.00. This procedure is more complex in that an appellant, who wishes to be represented, must be represented by legal counsel. Furthermore, there are provisions for Discovery of Documents and Examinations for Discovery of the parties.

The following chart shows the time line from filing to hearing of General Procedure Income Tax cases as determined by the *Act* and the *Rules* and the Court’s internal practices.

CASEFLOW STANDARDS - GENERAL PROCEDURE APPEALS



<sup>11</sup> Online: Tax Court of Canada – How to Appeal [http://www.tcc-cci.gc.ca/main\\_e.htm](http://www.tcc-cci.gc.ca/main_e.htm).

The process begins with the filing of the Notice of Appeal. As in the informal procedure *Rules*, the Respondent has sixty (60) days from the date of service of the Notice of Appeal to file its Reply to Notice of Appeal. Again here, there is a possibility of extending the time for filing this Reply if either the other party consents to an extension, or if an application for extension is made to the Court. Unlike the informal procedure cases, the provision is found under the *Rules* and not the *Act*. Therefore, an amendment could be brought to the *Rules* to specify an exact amount of time for any extension allowed in order for the Court to have control over the time of process of its cases, rather than the parties having control to consent to an unrealistic amount of time to be added to the process, which could ultimately delay the time process of an appeal under the general procedure *Rules* from filing to disposition. This power is of course in the hands of the Rules Committee. A review and research of its cause and effect would need to be taken into consideration before put into force. I personally do not believe that there is an abuse of this rule; however, this is an area where the Court could be proactive in its case management practices and standards.

Once a Reply to Notice of Appeal has been filed, the other party may file an Answer to the Reply within thirty (30) days from the date of service of the Reply. The *Rules* also specify that the parties shall within thirty (30) days following the close of pleadings, file and serve on every other party a List of the Documents of which the party has knowledge at that time, which may be used in evidence.<sup>12</sup>

Once again, the *Rules* seem to indicate that the Court is lenient to the parties who do not comply with the *Rules*. The *Rules* permit the parties to, without leave of the Court, file and serve Lists of

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<sup>12</sup> Subsection 81(1) of the *Tax Court of Canada Rules (General Procedure)*.

Documents after the specified time unless a motion for judgment has been filed, or an application to fix the time and place of hearing has been filed.<sup>13</sup> A party wishing to do so after either one of the latest has been filed, must do so with leave of the Court. Again, the *Rules* of the Court could be reviewed and made more reliable as to the time standard set to file said Lists of Documents.

The General Procedure *Rules* permit Discovery of Documents and Examinations for Discovery. However, the *Rules* of the Court do not impose a set time standard for the completion of these steps. The *Rules* stipulate that a party who seeks to examine an appellant for discovery may only do so after the Reply has been filed and Lists of Documents has been filed. The Court, of course, does not wish to rush the parties by imposing strict deadlines for these steps to be completed. Although, this process is time-consuming, it must be completed in order for the parties to be in a better position to argue and try the appeal.

When the above preliminary steps have been completed, Notice of Appeal filed, Reply to Notice of Appeal filed, Answer filed, if any, Lists of Documents exchanged, Examinations and Undertaking completed, the parties may file a Joint Application for a date and time for hearing to be scheduled. This application can be filed after the close of pleadings.

An initiative of the Court for moving cases along is to proceed with Status Hearings. The General Procedure *Rules* of the Court have been amended in the past years to shorten the time standard in the General Procedure *Rules* from six (6) to four (4) months after a Reply has been filed to hold a Status Hearing before a Judge of the Court. At the Status Hearing, the parties must show cause why the

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<sup>13</sup> Subsection 81(1) of the *Tax Court of Canada Rules (General Procedure)*.

appeal should not be dismissed for delay.<sup>14</sup> The Court has also implemented an internal practice and issued a Practice Note to the legal profession,<sup>15</sup> whereby a letter is forwarded to the parties before a Status Hearing is scheduled asking them to provide the Court, within 30 days, with an agreed-upon timetable as to when the parties anticipate having all preliminary steps completed. Once such a timetable is filed with the Court, an Order is issued confirming the agreed upon schedule. Should the parties not file an agreed-to timetable, the Court will then proceed to schedule a Status Hearing.

After the Status Hearing, the Judge will issue an Order requiring the parties to complete the preliminary steps if not already completed. The general practice among Judges has been to allow the parties 30 days to file Lists of Documents, 60 days thereafter to complete Examinations for Discovery, and 30 days thereafter to satisfy any Undertakings resulting from the Examinations. The Court has, over the last several years, ceased scheduling a trial date at the time of the Status Hearing, since the parties would agree to a date for hearing without having had Lists of Documents exchanged or Discoveries. The parties would estimate the length of trial and the approximate date of hearing, without being totally aware of the case because of a lack of Documents and Discoveries. For this reason, too many adjournments were being requested either indicating that the time allowed for the trial was insufficient, or the parties required more time to prepare for the hearing. The practice has now changed whereby the Court, when issuing the Status Hearing Order, will also order that the parties communicate, in writing, with the Court within 30 days from the time Undertakings are satisfied, to inform the Court whether the case will settle, a case management or pre-hearing conference would be beneficial, or a hearing date should be set.<sup>16</sup>

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<sup>14</sup> Paragraph 125(5)(a) of the *Tax Court of Canada Rules (General Procedure)*.

<sup>15</sup> Tax Court of Canada Practice Note No. 7.

<sup>16</sup> *Ibid.*

This practice has helped the Court with calendaring. General Procedure appeals are now set down for hearing only when the parties confirm that they have completed all of the preliminary steps and are ready for hearing. The Court usually schedules the hearing date within 60 days from the date a Joint Application is filed by the parties. This practice has also allowed the calendaring process to be more accurate and helped schedule and book Court days only for cases that will ultimately proceed to trial. Despite the fact that last minute settlements still occur after a hearing date has been scheduled, the parties usually have had more opportunity to discuss or negotiate issues that can be settled prior to such a trial date actually being set.

The duration of a hearing of a General Procedure appeal is generally a couple of days in length; however, some cases have been known to last a few weeks.

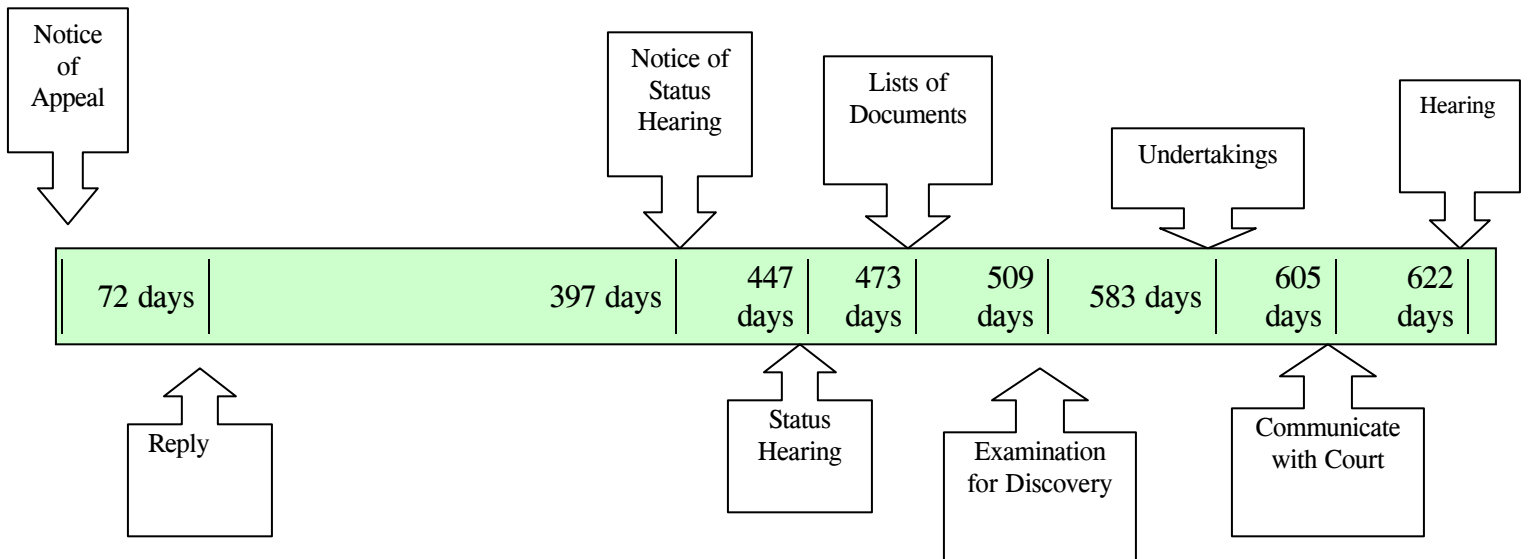
A Judge assigned to hear a General Procedure appeal is not held to any established time standard to render a judgment set by either the *Rules* or the *Tax Court of Canada Act*. However the average time for judgment to be rendered after a hearing in the sample of 50 General Procedure cases filed in 2003 was ninety eight (98) days.

If we follow the Courts *Rules of Procedure* and *Practice Notes*, the timeline from filing to hearing of a General Procedure case should be 480 days. However, after a review of the sample of fifty (50) General Procedure appeals filed in 2003, of the eight (8) cases that proceeded to trial, the time from filing to hearing was 622 days. The actual time line of the 16% of General Procedure Income Tax cases which proceeded to trial is demonstrated in the chart that follows.

ACTUAL CASEFLOW - GENERAL PROCEDURE APPEALS (16%)

STATISTICS FROM A SAMPLE OF 50 GENERAL PROCEDURE 2003 APPEALS OF WHICH ONLY 8 PROCEEDED TO TRIAL

TIME FROM FILING TO HEARING : 622 DAYS

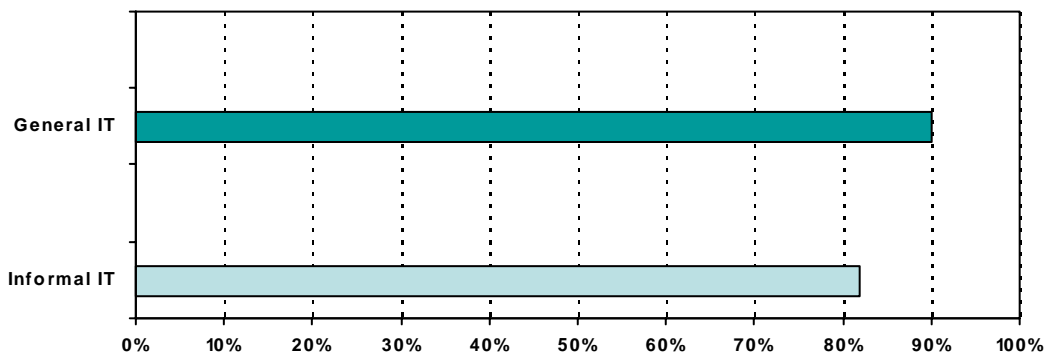


Of the sample cases reviewed, twenty six (26) were filed and disposed of within a two-year period. Of these twenty six (26), only eight (8) actually proceeded to trial. The other eighteen (18) cases were either consented to, or discontinued before trial. We can, therefore, conclude that 26 of 50 sample cases were disposed of within a two-year period. This represents 52% of cases. It is fair then to assume that 36% of General Procedure Income Tax cases being filed will not proceed to trial, as they will settle or withdraw before being set for trial. It is also fair to indicate that only 16% of cases that will proceed to trial will be disposed of within a two-year period. The other 24 cases are still ongoing which, of course, is 48% of the sampled cases, a large amount when you take into consideration that the Court's unofficial standard from filing to disposition is two years. One-half of the cases have yet to be scheduled for hearing and are actually not ready to be scheduled for hearing, in any event. This is quite revealing of our present caseload management process as it pertains to General Procedure appeals. It is also the reason that no timeline could be developed as these cases are still ongoing. The median age of these cases at the time of measurement is 32 months. These cases form part of the Courts pending caseload. (See Appendix G – 2003 Study Sample)

If 50% of the General Procedure cases as well as 28% of the Informal Procedure cases are not disposed of within the Courts unofficial standards of 2 years (G.P.) or 1 year (I.P.), these cases are added to the inventory of cases being filed each year. If this process is permitted to continue, we will never be able to reduce our inventory of cases. New practices and processes need to be implemented in order to deal with this situation as soon as possible. Our Court's reputation is at stake.

## TRIAL DATE CERTAINTY

A review of the trial date certainty using the same sample of cases for both the Informal and General Procedure cases and CourTool #5<sup>17</sup> in order to determine the number of times a case is disposed of at trial with only one scheduled hearing date is shown in the graph below:



General IT = 90% held on first hearing date  
Informal IT = 82% held on first hearing date

If the Court's goal was to dispose of 90% of its cases with one setting (scheduled for hearing only once) then the above table clearly indicates that the Court, while close to its target with 82%, is not quite accomplishing the 90% goal. However, at the present time, I am not aware of a specific goal of 90% having been set by the Court. This mark was used for demonstrative purposes only.

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<sup>17</sup> National Center for State Courts, CourTools - Trial Court Performance Measures, 2005.

## COURT PERFORMANCE – Judges’ Questionnaire

I commenced the questionnaire by asking the Judges what they believe the current caseflow time processing standards are for the different types of procedures in the Tax Court. More particularly, the maximum period from filing to disposition in days, trial date certainty and the size and age of pending caseloads were asked. I was surprised by the results which clearly indicated that the majority of the Judges have no idea what the current caseflow time processing standards were, or what they should be. I should note that twenty three (23) Judges were asked to complete the questionnaire, but only nine (9) were completed and returned. Three (3) Judges sent me a memo or note stating that they could not answer the questionnaire, since they were not familiar with the time standards and that the Chief Justice was the person to ask. Therefore, approximately only 39% of the Judges provided me with answers relating to the Court’s caseflow process, as they know it.

From the responses received, and the lack of responses received, I deduced that many, if not the majority of the Judges, are not aware and, unless asked to case manage, would not be aware of the time standards established by the *Act* and *Rules*. I do not believe that this is from ignorance of the process, but due to the fact that the Judges are not informed of the caseflow process, or they have been lead to believe that the Chief Justice and the Judicial Administrator are responsible to ensure that the time standards are followed. I agree that the Chief Justice, as well as the Judicial Administrator, have a great deal of responsibility in ensuring that the Court is being efficient in its case processing standards, however, I also believe that if Judges were informed or, at least, if they were aware of the set standards, it would be advantageous to the Court to be able to rely on the

probable support they would provide the Chief Justice and Judicial Administrator, in ensuring that the parties are complying with the *Rules* and practices of the Court for an efficient caseflow process.

When all key players cooperate and have input in the development of caseflow time standards they, in turn, have a strong interest in ensuring its success. I therefore requested the Judges to provide me with what they think the Court's case processing time standards should be from filing to disposition for the different types of appeals heard by the Court.

Once again, the Judges who answered the questionnaire indicated that they did not know what the time standards should be. Of the Judges who did make comments, the comments varied between "process looks fine as it is working now", "I believe the present processing time standards are acceptable" and "two years depending on the complexity of a case". I found it interesting that the same Judge who answered that he did not know what the current time standards were, also indicated that the present standards were acceptable! How can that be? If you do not know what the standards are, how can you say that they are acceptable? Appendix E describes the Judges Questionnaire results and other general comments made.

Of course, many of the Judges are not made aware of the time standards followed by the Registry staff and Judicial Administrator's office. They have complete confidence that the office of the Chief Justice and its administration, are ensuring that the Court meets its requirements. Also, the Judicial Administrator's office initiates different practices and processes in order to minimize caseflow issues within the Tax Court.

## SELF-ASSESSMENT QUESTIONNAIRE

While many questionnaires remain unanswered by Judges, I also thought it would be a useful tool to have non-judicial Court staff complete a self-assessment questionnaire, in addition to the Judges. The focus groups consisted of the first group, Judges, and the second group, the Judicial Administrator, the Registrar, the Registry Managers and Hearings Coordinators. The Hearings Coordinators are responsible for the scheduling of cases, the case management of cases, and to ensure that the parties comply with the Court Orders until the appeal is heard. There lies the interest in having them involved in the self-assessment questionnaires. Their input is very valuable in this exercise as they have firsthand knowledge of the caseflow process.

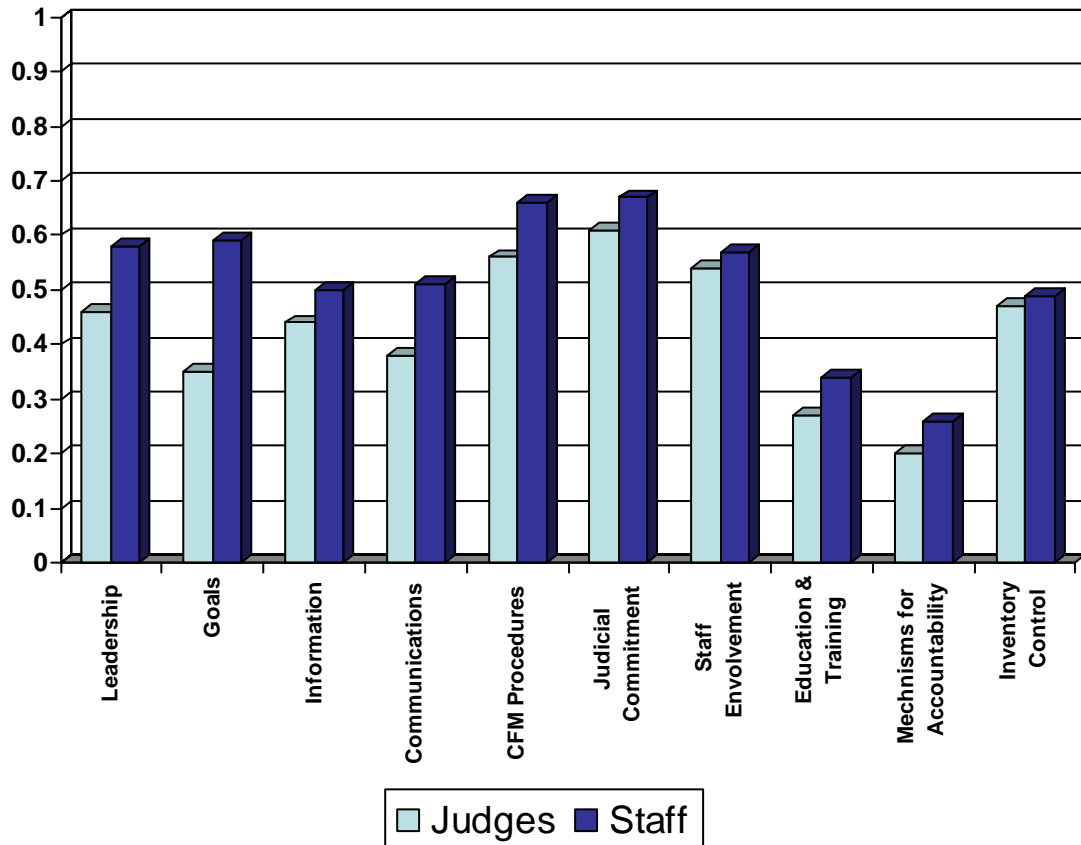
The ten common elements<sup>18</sup> being assessed were:

- 1) Leadership
- 2) Goals
- 3) Information
- 4) Communications
- 5) Caseflow Management Procedures
- 6) Judicial Commitment
- 7) Administrative Staff Involvement
- 8) Education and Training
- 9) Mechanisms for Accountability
- 10) Backlog Reduction/Inventory control

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<sup>18</sup> These ten key elements are completely described in Mahoney et al., *Changing Times in Trial Courts* (Chapter 9), pp.197-205.

## Comparison Graph of Self-Assessment Questionnaire Results



It is interesting to note the similarities in the responses from both focus groups asked to complete the self-assessment questionnaire.

On a scale of 0.1 to 1.0, the self-assessment questionnaire was used to determine the Court’s perceived level of performance in relation to the ten key elements described above for a successful program. A quick glance at the results indicates that the Court is perceived to be reaching a rate of

performance just over the middle mark. Depending on the way you look at these results, they are either acceptable or not-acceptable. Is the glass half-full or half empty! In either case, some improvements will need to be made to raise the level of performance in all ten elements. In general, the staff's results are slightly higher in numbers than that of the Judges group. I tend to justify this finding by the fact that the staff is made aware of the Court's case processing goals, and is actively involved in helping to achieve them.<sup>19</sup>

Judicial Commitment as well as Caseflow Management Procedures are the two highest scored elements in the Court's performance. It is well known and it has been an ongoing project in the Court, to monitor and continue to improve case processing practices in order to move cases along more expeditiously through the system. Many different steps have been undertaken to assist the parties in an appeal, and to be prepared for hearings. Status Hearings are now being set earlier in the process; Orders are being issued as a result of case management hearings, to monitor the progress being made, and the compliance to the Court's Orders, as well as pre-hearing conferences being held. Of course many of these steps have helped to ensure that the parties are ready, in advance, for trial dates and lawyers are more likely to be more prepared, and work towards settling prior to trial.

Judicial Commitment is well-defined as a commonly shared belief on the part of the judges that the Court has the responsibility for ensuring an expeditious pace of litigation. It is translated into action when the judges hold lawyers to schedules previously set, and decline to grant continuances routinely, even when the parties do not object.<sup>20</sup> There has been a shared effort in the Court, lead

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<sup>19</sup> *Ibid*, p. 203.

<sup>20</sup> *Ibid*, p. 202.

by the example of the Chief Justice, to not adjourn cases unless special circumstances warrant such adjournment. Furthermore, the judges and staff have confidence in the Chief Justice's focus on delay reduction and the Judicial Administrator's plan of action to reduce the inventory.

The two areas of perceived lower performance among the ten key elements are Education and Training and Mechanisms for Accountability. In order to better perform and succeed as an effective and efficient Court, we cannot ignore these two areas where results have shown a need to be improved. Education and training is essential to manage our caseload process. If both Judges and staff are not aware of why or how to do things, we are simply not going to get anywhere. Training of staff in order to inform them of the basics of caseload processes and the impact they can have on a day-to-day basis as to the success of our caseload management is key if the Court wants to improve in this area. Training programs will have to be developed to inform the non-judicial staff of the Court of the goals and responsibilities of the court. Emphasis must be made on the responsibility of court staff to the success of case management and the importance of the time standards adopted by the Court to achieve its goals.

As for Mechanisms for Accountability, I believe there is a direct connection to the Education and Training element described above. If court staff is made aware of what is expected, through education and training, and the goals which the Court is aiming to achieve, they will better understand what their roles and responsibilities are, in order to help the Court achieve those goals. Clear guidelines and expectations are needed in order to hold staff accountable for certain areas of low performance.

As for the Judges' low participation, that would be attributable to the fact that in our Court, the Chief Justice has the authority and control of the master calendar. He is the one in charge of assigning the sittings across the Country to the different Judges of the Court. The fixing of responsibility for caseload management upon individual judges is one step toward developing accountability, but by no means the only one.<sup>21</sup> At a recent judges' meeting, a new practice was adopted by the Judges wherein on a rotational basis, starting in the New Year, each Judge will be assigned as a Duty Judge for the duration of one week, three times a year. As Duty Judge, he or she will be responsible for hearing interim motions by conference call, conducting Status Hearings, dealing with requests for adjournments, and many other duties which were initially assigned to the Chief Justice. This initiative which was proposed a few years ago, but after some initial opposition in the past, has now been adopted by the Judges. It goes to say that we should never give up trying to develop new initiatives. By adopting this new practice, the responsibility for effective caseflow management will be shared amongst all Judges of the Court. Once again, it is vital that the Judges be informed of the Court's caseflow standards, its goals and expectations. Information on the age and status of cases is vital if Judges are to be held accountable for managing caseloads and reducing delays.<sup>22</sup>

This brings us to the other low scoring element in the self-assessment questionnaire – Goals. Not only will they be managing their own workload, but the Judges will also be responsible for the court's general workload. It is imperative that the Court's standards be known and understood by all. The Chief Justice has agreed to have some of his responsibilities delegated to the other Judges of the court while continuing to be the guiding model, and provide guidance and advice, when needed. Time standards are not self-executing. The more emphasis these leaders place on meeting time

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<sup>21</sup> *Ibid*, p. 203.

<sup>22</sup> *Ibid*, p. 202.

standards, the more likely it is that individual Judges and practicing lawyers will take them seriously.<sup>23</sup>

It is imperative that the Chief Justice, along with the Judicial Administrator, work together in order to keep all Judges informed of the guidelines established and transmit the expected outcomes from acting as Duty Judges. Judges must be informed of the expectations of the Chief Justice. More so, our case management system will need to provide all Judges with timely and accurate information about caseflow management processes, the Court's continuance rates, the monitoring and progress of caseflow standards, and much more.

All ten key elements are interconnected in order to achieve a successful caseflow management process. One cannot succeed without the other. A balance from all elements equals, in my opinion, a successful caseflow management performance. A caseflow management review is an ongoing process which has to be re-examined continually. It is the Court's responsibility to effectively manage its caseload and to do so in a timely manner is achieving its goals. To ensure that a Court satisfies its responsibilities, achieves its goals and objectives, and continually strives to make improvements in the ongoing operations, a Court must be conscious of its caseflow management performance.<sup>24</sup>

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<sup>23</sup> *Ibid*, p. 203.

<sup>24</sup> *How to Conduct a Caseflow Management Review, A Guide for Practitioners*, NCSC, 1994, p. v.

## **RECOMMENDATIONS AND CONCLUSIONS**

To be honest, in completing this research paper, I have but barely scratched the surface of the process in order to complete a major caseflow management performance review. I have but simply opened the door to many discussions and reviews which must take place in our organization. For example we must understand the Court's actual performance with respect to the 28% of Informal Procedure cases and the 50% of General Procedure cases that were over standard. A study of the characteristics of the cases would be very informative.

The amalgamation of the administration of four Courts as one has left the individual Courts to identify their separate goals and expectations, without having received direction. The emphasis has been to focus on the amalgamation of the administration of the Courts, its finance section, human resources branches, informatics sections, and corporate services. The organization's goals and administrative expectations have been quite clear; reduce the costs to administer justice; however, the individual Courts have been left out of the loop. What are the goals and expectations of the individual Courts? It is not indicated in the Courts Administrative Services Estimates for 2005-2006 what the goals and expectations of each Court are.

The Courts have been attempting with great difficulty to voice their concerns. Focus must be returned to the basis of why courts exist – to administer justice. However, in order to administer justice, Courts must have the administrative support needed. While it is understood that the Courts must be cost-effective, they must first and foremost be timely and fair. In order to better serve the Courts, the Courts Administrative Service has created a Best Practices and Procedures Directorate. This Directorate is currently studying the organizational priorities. Part of the functions and

intentions of the Directorate is to ensure a more efficient processing of cases and more effective support to the Courts we serve, broader public access to the courts, while ensuring transparency and full accountability for the use of public funds.<sup>25</sup> One of the priorities has been to develop a new case management system. The new Directorate has been reviewing and documenting the different practices and procedures of all courts in order to be able to develop a case management system capable of satisfying the four Courts.

Our current case management system, while advanced in comparison to the other Courts, has its flaws. While attempting to obtain statistical information for this project, I quickly realized that our system is unfortunately not capable of providing quick and accessible measurable information as to case processing standards. Firstly, only a statistical officer was knowledgeable in the system to provide me with information, however insufficient. A physical review of 100 files had to be done in order to verify the information needed to complete my research. While the system could provide me with the number of appeals filed and disposed of within the 2003 and 2004 years, it could not provide me with a list of these files, or even a sample of them, in order to measure the Court's performance in caseload time standards. Furthermore, if the information provided by our current system is accurate, out of 1,616 informal procedure appeals filed in 2004, only 1,073 have been disposed of within a year, leaving 543 cases in the pending caseload. Also, there is no way of verifying through our system if from the 1,073 cases disposed of, what the ages of the cases were. It is even more frustrating in that a second request for statistical information provided me with different results. This report indicated that 1,616 appeals were filed in 2004, while 1,754 appeals were disposed of. How can we interpret these numbers when the current system provides us with

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<sup>25</sup> Courts Administration Service Estimates, 2005-2006, Part III – Report on Plans and Priorities, Page 9.

two different sets of statistics for the same reporting period? Only a physical inspection of the files could answer my questions. While very time-consuming, the results obtained were much more accurate and could be trusted.

A new case management system is required to measure our Court's performance efficiently and accurately. The following measures are part of the ten Core Measures developed by the National Center for State Courts. They are identified as CourTools – Trial Court Performance Measures.<sup>26</sup> As indicated by the National Center, these tools can easily be adapted to various Courts. The following are, for the sake of my research paper, the measures which I suggest be taken into serious consideration in the development stages of our new case management system:

- 1) Clearance Rates – The number of outgoing cases as a percentage of the number of incoming cases.
- 2) Time to Disposition – The percentage of cases disposed or otherwise resolved within established time frames.
- 3) Age of Active Pending Caseload – The age of the active cases pending before the Court, measured as the number of days from filing until the time of measurement, and,
- 4) Trial Date Certainty – The number of times cases disposed by trial are scheduled for trial.

The above four tools of measurement are well defined in the CourTools pamphlets. The purpose and methods of these measurements are also well explained in the CourTools. I will be providing these tools to the Best Practices and Procedures Directorate and will encourage it to review and adapt these measures to our Court in order to effectively manage the Court's caseload.

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<sup>26</sup> See note 17, *supra*.

Of course, the new case management system must be set up to serve and support the Courts. An in-depth review of the case processing time standards of all types of cases under the jurisdiction of the four Courts is recommended. Study samples of each case type would alleviate the time process involved in such a review.

The results obtained through this research indicate very well that the Tax Court of Canada has been somewhat pro-active in developing strategies to shorten the case processing times of its caseload. However, the results indicate that the present case processing standards for Informal Income Tax cases are being met in 72% of cases and are actually being disposed of in a shorter period of time than the standards imposed by the *Act* and *Rules*. The other 28% have yet to be disposed of. Further evaluation of our efficiency in disposing of as many cases as are filed each year needs to be completed. Much research must be done in this area. The sample studied indicates that over a quarter of the informal procedure cases are not disposed of within the one year standard.

As for General Procedure Income Tax cases, the results indicate another story. The standards found in the *Act* and *Rules* are somewhat lenient and this seems to have affected the time for processing General Procedure cases. The average time from filing to hearing of a General Procedure case has been determined to be 622 days. However, this is the average time for 8 cases of the 50 study sample, which have been heard to date. An accurate timeline could not be developed as 50% of the cases have yet to be disposed of. As previously mentioned 17 of the 50 cases have been consented to or withdrawn leaving another 25 cases left in the sample study which have not yet been heard. Once again, let me reiterate that some steps have been taken since 2003 in order to shorten the case processing standards. However, the age of the pending caseload is increasing.

If the Court sets the time standards, and the parties are aware of these standards, and understand the importance of applying these *Rules* in order to ensure a fair and efficient trial, I believe the parties would be more receptive and not take advantage of some of the deficiencies in the Court's *Rules*. The *Rules* could be more specific in timelines, e.g. a specific time extension of 30 or 45 days to file their Lists of Documents, of course on consent of the other party, or with leave of the Court.

Although the Court has adopted a time standard for these steps in order to monitor and hold the parties to a specific standard, the Court does not have control of the discovery process unless a Status Hearing has been held and an Order of the Court has been issued to the effect the parties complete these steps by certain dates. In order to increase our efficiency, the Court should exercise more control over this process.

The *Rules* or the *Act* do not specify or impose a set time for the filing of a Joint Application. Again, this is an issue which would need to be addressed to the Rules Committee. A specific time standard could be provided in the *Rules* to hold the parties accountable for the timely process of the caseflow from filing to disposition. The *Rules* could be amended to indicate, for example, that a Joint Application is filed within thirty (30) days from the undertakings being satisfied (or Examinations for Discovery completed if no undertakings are given).

The latest practice adopted by the Court to shorten the time process before a status hearing is scheduled should help shorten the time from filing to hearing of General Procedure cases, however, further research will have to be completed in a year or so to re-evaluate the practice and make the necessary changes to improve our overall time processes and our performance.

Through this research paper I have attempted, to the best of my ability, to describe the current situation of the Tax Court of Canada with respect to caseloads and case processing times, to assess the effectiveness of our structure, and operational procedures as they pertain to caseflow, and to identify the Court's strengths and weaknesses. I hope that the outcome of this paper will add some basis for developing a comprehensive plan of action and that the recommendations will be taken into consideration at the development stage of the Court's new case management system.

It is also evident from the results obtained from the Self-Assessment Questionnaire that the Court needs to focus on improving its performance. The results from all ten elements tested indicate what I believe is the Court's present situation in that our caseflow processes are not as effective as originally expected, and perceptions of the Court's performance aren't positive either. The two are interconnected in that when our caseflow processes are updated and cases actually proceed within the timelines established by the Court, our self perception of the Court's performance should in fact raise. Good leadership which in turn communicates the Court's goals and expectations across the organization through sharing information on caseflow procedures and involving staff as well as the Judiciary in the control of inventory and case management practices will ultimately not only help our case processing but improve our self perception of the Court's performance. We, working together, will be responsible in making our Court much more effective and efficient, which will ultimately impact our Court's performance.

This exercise has not only been a learning experience, but also an eye opening experience. I feel that I have but merely opened the dialogue. A much more in-depth analysis and review must be undertaken in order to achieve and put into effect a plan of action. We are, as previously mentioned,

only at the beginning phase of development. Many challenges await us. We must be ready for them.

## APPENDICES

## APPENDIX “A”

### Justices Questionnaire:

1. What do you believe the current Tax Court of Canada’s caseload time processing standards are for:

(NOTE: if you are unsure, please leave blank or make comments)

a) General Income Tax Cases

i) Maximum period from filing to disposition in days

ii) Trial date certainty

iii) Size and age of pending caseload

b) Informal Income Tax Cases

i) Maximum period from filing to disposition in days

ii) Trial date certainty

iii) Size and age of pending caseload

c) Employment Insurance Cases

i) Maximum period from filing to disposition in days

ii) Trial date certainty

iii) Size and age of pending caseload

2. What do you think our case processing time standards should be in days from filing to disposition for the following?

i) General Income Tax Cases

ii) Informal Income Tax Cases

iii) Employment Insurance Cases

3. How would you evaluate our current case processing systems and performance?  
Please circle your answer and provide comments.

- 1 - Poor
- 2 - Fair
- 3 - Good
- 4 - Very Good
- 5 - Excellent

Comments:

4. What do you believe would be the most promising change for reducing delay and improving caseload management? Why?
5. Any other information or comments related to the above you would like to share with me would be greatly appreciated:

## APPENDIX "B"

### Tax Court of Canada Self-assessment Questionnaire

Name (optional) : \_\_\_\_\_

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Instructions: 1. Score the court on each question. If you are uncertain, use your best estimate.

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1. The court has adopted time standards that establish expected outside limits on case-processing time from filing to disposition, for major categories of cases.

1	2	3	4	5
No standards or guidelines		Informal guidelines exist		Yes--written standards have been adopted and published

2. Judges who have responsibility for all or part of the caseload regularly receive management information reports that enable them to know the number of pending cases for which they are responsible, the distribution of these cases by age since filing, and status of each case.

1	2	3	4	5
No		Some information provided regularly		Yes--all of this information is regularly provided (at least monthly)

3. When new caseload management programs or procedures are being considered, the court's leaders consult with leaders of other organizations that may be affected (e.g., bar, justice, lawyers).

1	2	3	4	5
No		Sometimes		Yes, as a standard policy

4. The court counts every case as pending from the date that it is initially filed.

1	2	3	4	5
No		Some categories of cases		Yes

5. The chief judge has endorsed the court's case-processing time standards.

1	2	3	4	5
No		Quiet support, within the court		Yes, publicly and emphatically

6. There is a commonly shared commitment, on the part of the judges, to the principle that the court has responsibility for ensuring expeditious case processing.

1	2	3	4	5
No shared commitment		Some judges are committed		Virtually all judges are committed

7. Members of the judges' support staffs (law clerk, judicial assistant, etc.) are knowledgeable about caseload management principles and techniques, and use them in helping to manage caseloads and individual cases.

1	2	3	4	5
No		Some		Yes--virtually all are knowledgeable and use the principles and techniques

8. The court regularly conducts training on caseload management principles and techniques for judges and staff.

1	2	3	4	5
No training		Some training; conducted irregularly		Yes

9. The court has established, and uses, a system evaluating the effectiveness of judges in handling the portions of the court's total caseload for which they have responsibility.

1	2	3	4	5
No		Some criteria exist		Yes

10. The court has few or no cases pending for more than the maximum length of time established by its own case-processing time standards.

1	2	3	4	5
Don't know	Many cases are older than the court's (or ABA's) time standards	About 30% are older	10-15% are over the standards	No cases or only a few are over the standards

11. There are published policies and procedures governing the caseload process, readily available to judges, the court's staff, and bar members.

1	2	3	4	5
No		Exist for some areas		Yes, cover all major caseload issues/areas

12. The chief judge plays a leading role in initiating caseload management improvements in the court.

1	2	3	4	5
No		Sometimes		

13. The judges are aware of the court's case-processing time standards.

1	2	3	4	5
No standards exist		Some are aware		Yes--all judges

14. Trial judges have, or can readily obtain, all information necessary to enable them to know about the status of a case, its prior history in the court, and related cases involving the same parties.

1	2	3	4	5
No		Some information usually available		Yes

15. Potentially protracted or complicated cases are identified early for special attention.

1	2	3	4	5
No	Sometimes		Yes, systematically	

16. Consultation between judges and administrative staff about caseload management policies and procedures occurs.

1	2	3	4	5
Rarely or never	Occasionally, mainly when there are problems		Regularly	

17. The chief judge regularly disseminates information on caseload status, trends, and problems.

1	2	3	4	5
No	Sometimes		Yes	

18. Assess the difficulty of an attorney obtaining a continuance of a hearing date.

1	2	3	4	5
Easily obtained upon request or stipulation	Attorney must show cause, but request is usually granted		Can be obtained only on written request/motion and showing of substantial cause	

19. Judicial support staff notify the judges of cases that have been pending for long periods of time and cases in which there have been repeated continuances.

1	2	3	4	5
No	Some		Yes	

20. Judges attend national or in-state seminars on caseload management and related topics.

1	2	3	4	5
No	Some judges attend, no standard court policy sessions periodically		Yes--all judges are expected to attend such	

21. Judges who do an effective job of managing the caseloads for which they are responsible are publicly recognized for their good performance.

1	2	3	4	5
No	Sometimes		Yes	

22. The court disposes of at least as many cases as are filed each year, in each general category of cases. 12

	3	4	5	
No--filings consistently exceed dispositions	Some years, in some categories of cases		Yes, consistently	

23. The court's staff at all levels is aware of the court's case-processing time standards and other caseload management goals.

1	2	3	4	5
There are no goals or standards	Some are aware	Top staff are aware	Yes	

24. The court's recordkeeping system (including management information reports, whether automated or manual):

1	2	3	4	5
Impedes effective caseflow management	Is not helpful	Has some helpful features	Is helpful	Greatly facilitates effective caseflow management

25. Assess the structure and frequency of communications between the court's leaders and the bar concerning caseflow management policies and practices.

1	2	3	4	5
No mechanisms; infrequent consultation	No mechanisms; occasional informal consultation	Consultation as requested by court or bar leaders	Formal mechanisms; occasional consultation	Formal mechanisms; frequent consultation

26. Judges' commitment to effective caseflow management is demonstrated by their actions in holding lawyers to schedules, limiting continuances to situations in which good cause is shown, and allowing continuances only for short intervals.

1	2	3	4	5
Generally, no		Inconsistent		Generally, yes

27. The system of scheduling cases for hearings provides attorneys and the court with certainty that a case will be heard on the scheduled date.

1	2	3	4	5
Rarely	Less than half the time	50-70% of the time	70-90% of the time	90-100% of the time

28. The court has a central staff unit that regularly monitors the caseload, identifies problems (e.g., pending caseload increasing; certain cases taking unduly long), and provides recommendations for action to the chief judge.

1	2	3	4	5
No		Some central staff monitoring; occasional recommendations		Yes

29. The court has time standards/guidelines governing the time interval between each major stage in the litigation process.

1	2	3	4	5
No		Guidelines cover some but not all intervals		Yes

30. The court has a standard orientation program for new judges and new staff members, in which the court's policies and expectations regarding caseflow management are covered thoroughly.

1	2	3	4	5
No		Some orientation		Yes, thorough orientation

31. The court has established, and uses, a system for evaluating the effectiveness of staff members in performing their duties with respect to caseflow management.

1	2	3	4	5
No		Some criteria exist		Yes

32. Judges who have responsibility for portions of the court's caseload periodically review the age and status of cases for which they are responsible.

1	2	3	4	5
Never		Occasionally		Yes, at least once a month

33. The chief judge is widely regarded--by judges, staff, and others--as actively committed to reducing delays and implementing effective caseload management procedures.

1	2	3	4	5
No		Mixed perceptions		Yes

34. The court's caseload management goals, and its performance in relation to the goals, are subjects of regular communication with the bar and media.

1	2	3	4	5
No		Sporadic communication		Yes

35. The court regularly produces reports that show trends in filings, dispositions, pending caseloads, and case-processing times.

1	2	3	4	5
No		Some trend analysis		Yes--regular analysis of trends in all of these areas

36. The judges discuss the status of the caseload and other caseload management issues at regularly held judges' meetings.

1	2	3	4	5
No		Sometimes		Yes

37. Consultation with attorneys, by a judge or court staff member, occurs early in a case, to set deadlines for completion of stages of the case.

1	2	3	4	5
No	Only if requested by attorney	Sometimes	Mainly in complex cases	Yes, in all cases

38. The judges recognize the need to monitor the pace of litigation and are actively committed to seeing the court meet standards for expeditious case processing.

1	2	3	4	5
No		Some judges recognize the need		Yes

39. Judges' support staffs provide help in achieving the court's goals (e.g., in contacts with attorneys, including scheduling cases for court dates).

1	2	3	4	5
No		Some		Yes

40. The court regularly conducts training sessions for practicing lawyers (especially young lawyers) to familiarize them with the court's caseload management policies, procedures, and expectations.

	1	2	3	4	5
No			Some training, irregularly		Yes conducted

41. Judges who have administrative responsibility (e.g., chief judge; presiding judge) meet with the other judges to review the status of pending caseloads and discuss ways of dealing with common problems.

	1	2	3	4	5
No			Occasionally		Yes, at least once a month

42. The court regularly produces management information reports that enable judges and staff to assess the court's progress in relation to its caseload management goals.

	1	2	3	4	5
No			Information available		Yes on some goals

43. Mechanisms for obtaining the suggestions of court staff about caseload management problems and potential improvements exist and are used by the court's leaders.

	1	2	3	4	5
No			Occasionally		Yes, regularly

44. Attorneys are ready to proceed on the scheduled trial date.

	1	2	3	4	5
Rarely		Less than half the time	50-70% of the time	70-90% of the time	90-100% of the time

45. Judges whose performance in managing the caseloads for which they are responsible is below acceptable standards are provided with assistance and receive negative sanctions if their performance does not improve.

	1	2	3	4	5
No			Sometimes		Yes

46. The court follows established procedures to identify inactive cases and bring them to disposition.

	1	2	3	4	5
No			Occasional reviews and purges of inactive cases		Yes--regular reviews are done and "purge" procedures are followed

47. The court administrator is widely regarded--by judges, staff, and others--as knowledgeable about caseload management principles and practices, familiar with the court's caseload situation, and effective in recommending and implementing policy changes.

	1	2	3	4	5
No			Mixed perceptions		Yes

48. The time required to complete case processing is generally within the time standards adopted by the court.

1	2	3	4	5
Don't know	Many cases over standards	Fair performance in relation to standards	Good performance; some improvement desirable	Yes--the court is consistently within the standards

49. Techniques for avoiding or minimizing attorney schedule conflicts are part of the scheduling system, and attorneys' schedules are accommodated to the extent reasonably possible.

1	2	3	4	5
Attorney schedule conflicts are a major problem		Some techniques are used; system could be improved some goals		Techniques are used and work well; no improvement needed on

50. The court has adopted format policies and procedures with respect to most or all areas of caseload management, and these policies are followed/enforced.

1	2	3	4	5
Few or no areas are covered by formal policies	Some formal policies; rarely enforced	Some formal policies; inconsistent enforcement	Most areas have formal policies; enforcement needs some improvement is consistent	Most areas covered by formal policies; enforcement

51. Senior staff members regularly meet with judges in leadership positions to discuss caseload status and develop plans for addressing specific problems.

1	2	3	4	5
No		Occasionally		Yes

52. Judges who have administrative responsibility review information on the performance of judges in their divisions with respect to caseload management, give public recognition to those who are doing an outstanding job, and meet with those whose performance is subpar to discuss needed improvements.

1	2	3	4	5
No		Sometimes		Yes

53. The court has adopted goals for the frequency with which trials start on the scheduled date.

1	2	3	4	5
No		Informal expectations exist		Yes

54. Key management information reports are widely distributed to judges and staff, and include short written analyses that highlight problems and issues.

1	2	3	4	5
No		Limited distribution, little analysis		Yes

55. The court provides information about its caseload management goals and about its performance in relation to these goals to the media on a regular basis.

1	2	3	4	5
No		Occasionally		Yes, regularly

56. Simple cases that may be amenable to swift disposition are identified at an early stage for special processing.

1	2	3	4	5
Never	Rarely	Sometimes; mainly if counsel requests	Some categories	Yes, routinely of cases

57. Court staff members attend national or in-state seminars on caseload management and related topics.

1	2	3	4	5
No		Some staff members have such training		Yes--virtually all staff members periodically receive such training

58. The court has established goals for the maximum size of its pending caseload(s), and has developed plans for reducing its caseload to that number (or, if the current caseload is at an acceptable size, for ensuring that the caseload does not exceed the goal that has been set).

1	2	3	4	5
No		Some goals exist; status of plans unclear		Yes

59. The chief judge and court administrator regularly meet to review caseload status, discuss policy and operational problems affecting caseload management, and develop specific policies and plans.

1	2	3	4	5
Rarely or never		Irregularly		Yes--at least once a week

60. How frequently are cases that have been scheduled for hearing adjourned because there are more ready cases than can be reached on the scheduled date?

1	2	3	4	5
Very frequently	Frequently	Occasionally	Rarely	Never

61. Staff members who do an effective job of managing caseloads for which they are responsible are publicly recognized by the court's leaders for their good performance.

1	2	3	4	5
No		Sometimes		Yes

62. Discussions between judges with administrative responsibility and senior staff members in the court, concerning caseload management policies and procedures, occur:

1	2	3	4	5
Rarely		Occasionally		Regularly, and whenever needed

63. Every pending case on the court's docket has a "next action" date scheduled.

1	2	3	4	5
Most cases do not have next action dates scheduled	Approximately 10-20% of cases have no next action date scheduled	Approximately 20-40% of cases have no next action date scheduled	Almost all cases have a next action date	Yes

64. Judges conduct a case management conference (or pre-hearing) with counsel, 5 to 21 days before the scheduled trial date, to resolve pending motions, determine what issues of law and fact are in dispute, and establish "ground rules" with respect to voir dire, witness scheduling, use of exhibits, and other issues likely to arise at trial.

1	2	3	4	5
No	Rarely	Some judges, in some cases	Most judges, in most cases	Yes, all judges, in all except very simple cases

65. The following caseload management information is readily available and regularly used: (Y = Yes; N = No)

<u>Available</u>	<u>Used</u>	<u>Information</u>
_____	_____	Number of pending cases, by case type
_____	_____	Age of pending cases (frequency distribution, within age categories)
_____	_____	Change in number and age of pending cases since last report or since previous year
_____	_____	Age of pending caseload compared to time standards
_____	_____	Age of cases at disposition, by case type
_____	_____	Percentage of hearings starting on first scheduled hearings date
_____	_____	Number of adjournments of scheduled events in each case
_____	_____	Reasons for each adjournment
_____	_____	Number and proportion of dispositions by type of disposition
_____	_____	Annual filings and dispositions, by case type

To score this question, add the number of Y's in the "Available" and "Used" columns, and divide the total (\_\_\_\_\_) by 4,  
 RESULT: \_\_\_\_\_

APPENDIX "C"

**Tax Court of Canada  
Appeals filed and disposed in 2004**

<b>Type</b>	<b>Filed 2004</b>	<b>Percentage</b>	<b>Disposed 2004</b>	<b>Percentage</b>
<b>IT(I)</b>	<b>1616</b>	<b>38.6</b>	<b>1754</b>	<b>36.3</b>
<b>IT(G)</b>	<b>1004</b>	<b>24</b>	<b>1164</b>	<b>24.1</b>
<b>GST(I)</b>	<b>256</b>	<b>6.1</b>	<b>291</b>	<b>6.2</b>
<b>GST(G)</b>	<b>175</b>	<b>4.1</b>	<b>314</b>	<b>6.5</b>
<b>UI</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0.08</b>
<b>EI</b>	<b>796</b>	<b>19</b>	<b>974</b>	<b>20.1</b>
<b>CPP</b>	<b>312</b>	<b>7.4</b>	<b>309</b>	<b>6.3</b>
<b>PGRT(I)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>PGRT(G)</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0.02</b>
<b>EXP(I)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>EXP(G)</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0.02</b>
<b>OAS</b>	<b>22</b>	<b>0.5</b>	<b>17</b>	<b>0.3</b>
<b>WVA</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>MNCW</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>4181</b>	<b>100</b>	<b>4829</b>	<b>100</b>

APPENDIX "D"

**Tax Court of Canada  
Appeals filed and disposed in 2003**

Type	Filed 2003	Percentage	Disposed 2003	Percentage
IT(I)	1613	35.6	1887	40.2
IT(G)	1174	25.9	1016	21.6
GST(I)	316	6.9	310	6.6
GST(G)	166	3.6	240	5.1
UI	0	0	18	0.3
EI	918	20.2	896	19
CPP	323	7.1	306	6.5
PGRT(I)	0	0	0	0
PGRT(G)	0	0	0	0
EXP(I)	0	0	0	0
EXP(G)	2	0.04	5	0.1
OAS	12	0.2	16	0.3
WVA	0	0	0	0
MNCW	0	0	0	0
<b>Total</b>	<b>4524</b>	<b>100</b>	<b>4694</b>	<b>100</b>

APPENDIX “E”

**Judges Questionnaire Results:**

Study Sample	Current Time Processing			Time Processing Should be		
	IT (G)	IT (I)	EI	IT (G)	IT (I)	EI
Judge A	730 days	273.6 days	273.9 days	Present acceptable	Present acceptable	Present acceptable
Judge B	*	*	*	*	*	*
Judge C	No idea	No idea	No idea	730 days	273.6 days	273.6 days
Judge D	No idea	No idea	No idea	730 days	120 days	120 days
Judge E	-	-	-	-	-	-
Judge F	-	-	-	-	-	-
Judge G	-	-	-	-	-	-
Judge H	-	-	-	-	-	-
Judge I	Don't know	330 days	Don't know	Varies on nature of case	As fixed by the Act. 330 days	365 days

\*I think a lot of this depends on the region. I know the Maritimes and Nfld are current in everything.

Study Sample	Trial Date Certainty			Size & Age of Pending caseload		
	IT (G)	IT (I)	EI	IT (G)	IT (I)	EI
Judge A	547.2 days	182.4 days	182.4 days	1000 files up to 5 yr old	3000 files up to 2 1/2 yr old	500 cases up to 2 1/2 yr old
Judge B	*	*	*	*	*	*
Judge C	No idea	60 – 90 days	No idea			
Judge D	No idea	No idea	No idea	No idea	No idea	No idea
Judge E	-	-	-	-	-	-
Judge F	-	-	-	-	-	-
Judge G	-	-	-	-	-	-
Judge H	-	-	-	-	-	-
Judge I	Don't know	240 days	Don't know	Don't know	Don't know	Don't know

\* I think a lot of this depends on the region. I know the Maritimes and Nfld are current in everything.

Other General Comments:

**Judge A:**

- I think a great deal of effort has been made by the Court and the CAS to ensure that cases are heard and disposed of as expeditiously as possible.
- I am not aware of what more can be done to reduce delay, except perhaps for the electronic filing of all documents.

**Judge B:**

- I've never heard complaints from a taxpayer that they did not get processed and before the Court in a timely manner.
- In my experience the present system is working well.

**Judge C:**

- No idea – Judges are rarely, if ever, informed. I don't even want to guess.
- How would you evaluate our current case processing systems? No idea what your goals are.
- Promising change for reducing delay and improving caseload management? Get some Judges involved.

**Judge D:**

- Hard to know what to fix if you don't know what is broken. If delay is due to parties ignoring orders, then award costs against them. If delay is due to parties' simply not taking the next step then have more case management conferences. If delay is not a problem then do we need to do anything? As a Judge, and not a manager, I don't know what goes on behind the scenes to move, or not move, matters along, so am probably not the best person to ask.

**Judge E:**

- It is very difficult, if not impossible to answer this questionnaire as the regular judges do not have the statistic information on the case management of the Court. Most of the questions asked

can be answered by the Chief Justice and the Chief Coordinator. But as a regular judge, we receive our own files and proceed with them. We don't have statistic on how long it takes from the date of filing to the disposition of the case.

**Judge F:**

- I have been involved in very few case managements and not very successfully – many of my answers are guesses because I don't know. I believe we should do more case management and be directed as to how it's done. In general, the Judges don't know what transpires with respect to the overall case management. This is the Chief's prerogative and I have no problem with that. He knows our strengths and weaknesses and is the best one to decide who knows what.

**Judge G:**

- I have no knowledge of case processing systems or caseload systems. At Judges' meetings (semi-annually) the Judicial Administrator tells us in general terms of extent of backlog but I'm fairly certain few judges know enough about "systems" to comment on backlogs – at least I don't.  
- Unless asked to case manage, I know virtually nothing about the caseload management except the Judicial Administrator appears to be doing a good job.

**Judge H:**

- Current case processing time processing standards: I do not know answers but it would be useful to know that info.  
- What case processing time standards should be: Generally, process looks like it is fine as it is working now.  
- Most promising change: One judge assigned to case after one adjournment. Unwarranted delays by having several judges involved in one appeal.

**Judge I:**

- Most promising change: Requiring parties to comply with Rules and status hearing Orders.

**Additional comments from Judges who did not complete the questionnaire:**

- Raynald Chartrand (Best Practice and Procedures Director) has all these statistics on a monthly basis so the exact numbers are there and he is very good about making them available. As for all the “opinion” material, use that of the Chief Justice and I will simply agree with it. So double his numbers to cover my return.
- I find it difficult to respond to your memorandum because it appears to be based on the premise that an administrative initiative with regard to caseflow management should be undertaken. I am far from convinced that any such initiative is either necessary or desirable. I question the necessity of such an initiative because I am not aware of any complaints about the present pace of litigation in this Court. I question desirability because the pace of litigation is governed by the TCC Act and by the Rules. Any proposal to change the Act should be referred to the Chief Justice and possibly to the full Court at one of the semi-annual meetings. Any proposal to change the Rules should be referred to the Chief Justice as chairman of the Rules Committee for consideration by the Committee. Finally, I will observe that the statistical information with respect to caseflow matters is not now sent to Judges. It is difficult to determine whether there are inadequacies.
- I have reviewed the questionnaires and I note that they appear to relate to two main issues:
  1. Maximum period from filing to disposition of appeals in days, in my opinion this is an area that should be dealt with by the Chief Justice.
  2. Size and age of pending case load, this is an area that is handled by Raynald Chartrand.I wish to also note that many of the questions contained in the questionnaires do not appear to apply to the Tax Court of Canada.

APPENDIX “F”

2004 STUDY SAMPLE

Appeal #	Notice of Appeal	Notice of Appeal served	Reply	N/H	Adj.	Scheduled Date	Consent or Notice of Withdrawal	Judgment
2004-2595(IT)I	14-06-04	22-06-04	17-08-04	02-11-04 04-03-05 17-06-05	23-12-04 11-05-05	14-01-05 11-05-05 11-08-05	c-28-06-05	21-07-05
2004-104(IT)I	05-01-04	02-02-04	12-03-04	27-05-04		05-07-04		29-07-04
2004-1467(IT)I Waiver	05-01-04	20-04-04	06-05-04	03-06-04		15-07-04		21-07-04
2004-2350(IT)I Waiver	12-01-04	01-06-04	29-07-04	10-11-04		14-01-05	c-11-01-05	24-01-05
2004-473(IT)I	30-01-04	10-02-04	07-04-04	02-06-04		13-07-04		21-07-04
2004-1257(IT)I	03-02-04	21-04-04	10-06-04	25-06-04		11-08-04		18-08-04
2004-504(IT)I	03-02-04	13-02-04	13-04-04	03-06-04		25-08-04	c-18-08-04	20-09-09
2004-619(IT)I	10-02-04	04-03-04	19-04-04	22-04-04		02-06-04	c-27-05-04	14-06-04
2004-1105(IT)I	19-03-04	01-04-04	07-05-04	05-11-04		13-01-05	c-10-01-05	20-01-05
2004-1717(IT)I	30-03-04	29-04-04	18-06-04				c-20-06-05	29-06-05
2004-939(IT)I	11-03-04	23-04-04	25-05-04	26-10-04		15-12-04		14-01-05
2004-2168(IT)I	30-04-04	27-05-04	21-07-04	14-09-04		17-11-04		29-11-04
2004-2004(IT)I	22-04-04	07-05-04	30-06-04	20-10-04		08-12-04		17-12-04
2004-1559(IT)I	14-04-04	07-05-04	31-05-04	10-11-04		13-12-04		10-01-05
2004-3656(IT)I WAIVER	09-07-04	14-09-04	10-11-04	10-02-05		04-04-05		12-04-05
2004-2668(IT)I	10-09-04	22-09-04	18-11-04	24-02-05		04-04-05	C-01-04-05	11-04-05
2004-4301(IT)I	05-10-04	17-11-04	07-12-04	16-12-04 15-02-05	11-02-05	16-02-05 18-05-05		25-05-05
2004-3462(IT)I	17-08-04	02-09-04	01-11-04	16-11-04 15-02-05	19-01-05 13-04-05	27-01-05 13-04-05	C-13-04-05	19-04-05

2004-2793(IT)I	19-06-05	06-07-04	30-08-04	01-12-04		07-02-05	C-03-02-05	15-02-05
2004-2711(IT)I	22-06-04	28-06-04	24-08-04	01-12-04		09-02-05	W-28-02-05	01-03-05
2004-2657(IT)I	23-08-04	09-09-04	05-11-04	20-01-05		25-02-05	C-28-01-05	03-02-05
2004-2646(IT)I	17-06-04	23-06-04	12-08-04	02-11-04		14-01-05		21-01-05
2004-4660(IT)I	01-12-04	29-12-04	25-01-05	09-05-05		22-06-05	C-28-06-04	15-07-05
2004-4788(IT)I	05-11-04	29-12-04					W-22-04-05	28-04-05
2004-3191(IT)I	19-07-04	05-08-04	04-10-04	19-11-04		18-03-05		23-03-05
2004-3251(IT)I	06-08-04	17-08-04	23-04-04	15-11-04		26-01-05	C-12-01-05	20-01-05
2004-2943(IT)I	01-06-04	19-07-04	16-09-04	02-12-04		03-02-05		11-04-05
2004-2980(IT)I	02-07-04	19-07-04	07-09-04	16-11-04		07-02-05		01-04-05
2004-3151(IT)I	14-06-04	30-07-04	08-09-05	21-10-04		13-01-05		20-01-05
2004-2256(IT)I	18-05-04	16-06-04					C-05-08-04	23-08-04
2004-4430(IT)I	09-11-04	24-11-04	19-01-05	06-06-05 23-06-05	13-06-05	19-07-05 17-10-05		Reserved
2004-1418(IT)I	07-04-04	21-04-04	21-06-04					Not Sch.
2004-1062(IT)I	17-03-04	24-03-04	02-07-04					Not Sch.
2004-3713(IT)I	12-11-04	18-11-04	09-12-04	06-01-05	26-01-05	09-02-05		Not Sch.
2004-2363(IT)I	27-05-04	03-06-04	28-07-04	27-10-04		17-12-04		04-01-05
2004-296(IT)I	23-01-04	30-01-04	31-03-04					Not Sch.
2004-357(IT)I	28-01-04	30-01-04	31-05-04					Not Sch.
2004-821(IT)I	03-03-04	09-03-04	07-05-04					Not Sch.
2004-751(IT)I	26-02-04	04-03-04	04-05-04	19-09-04	24-09-04	18-10-04		Not Sch.
2004-2133(IT)I	06-05-04	20-05-04	17-07-04	30-09-04	13-12-04	13-12-04		
2004-2363(IT)I	27-05-04	02-06-04	28-07-04	27-10-04		17-12-04		Judgment 04-01-05
2004-2561(IT)I	04-06-04	21-06-04	23-08-04	20-10-04 06-12-05	22-11-04	30-11-04 03-03-06		Scheduled 03-03-06
2004-853(IT)I	18-05-04	19-05-04	07-07-04					Not Sch.
2004-2847(IT)I	05-07-04	06-07-04	30-08-04	23-11-04		21-01-05	C-14-01-05	21-01-05
2004-1917(IT)I	30-07-04	03-08-04	01-10-04				C-25-11-05	
2004-3094(IT)I	20-07-04	26-07-04	23-09-04	24-11-04		27-01-05	N/W-18-01-05	18-01-05
2004-3838(IT)I	24-09-04	06-10-04	16-11-04	14-04-05		14-06-04		Scheduled

				29-09-05		13-12-05		13-12-05
2004-4004(IT)I	28-09-04	13-10-04	04-11-04	13-10-05		15-12-05		Scheduled 15-12-05
2004-2932(IT)I	22-11-04	19-01-05	15-03-05	16-05-05 17-06-05	12-10-05	23-06-05 11-10-05		Not Sch.
2004-4113(IT)I	25-11-04	29-11-04	27-01-05	01-02-05		02-03-05		05-04-05
2004-4524(IT)I	12-11-04	10-12-04	22-02-05					Status Report 31-01-06

APPENDIX "G"  
2003 STUDY SAMPLE

Appeal #	N/A	Reply	S/H	S/H Heard Or sch.	List T.B.C.	Disc. T.B.C.	Und. T.B.C.	Comm. with Court	Joint APP	Sch. Date	Status
2003-4641(IT)G	24-12-03	31-05-05	05-11-04	09-12-04	30-06-05	31-08-05	31-10-05	30-11-05			Awaiting Reply From parties
2003-4334(IT)G	03-12-03	27-02-04	06-10-04	25-11-04	04-01-05	15-02-05 22-04-05	15-03-05 13-05-05	15-05-05 27-05-05	01-06-05	18-10-05	169(3) 13-10-05 N/W tbf 14-12-05
2003-2579(IT)G	03-10-03										Held pending Sutcliff – 05-11-03
2003-3323(IT)G	18-09-03	07-01-04	28-07-04	04-11-04							Held pending Fry – 26-10-04
2003-3182(IT)G	08-09-03	28-11-03	28-07-04 17-03-05	04-11-04 07-04-05	30-09-05	21-11-05	31-01-06	28-02-06			List of docs has Not been filed?
2003-3291(IT)G	26-06-03	17-11-03	14-10-04 05-07-05 16-08-05	16-12-04 09-08-05 15-02-06	31-01-05	31-03-05	15-04-05	16-05-05			Status Hearing Adjourned to 15-02-06
2003-2956(IT)G	14-08-03	28-10-03	08-10-04 02-05-05	18-11-04 21-06-05	26-03-04 30-11-04	31-12-12	31-12-04	15-01-05	27-05-05	17-10-05	J. Paris seized More info expected By Dec. 21
2003-2852(IT)G	06-08-03	14-10-03	28-07-04	04-11-04	01-12-04	01-03-05	01-04-05	15-04-05 28-10-05			Awaiting Reply From parties
2003-1915(IT)G	09-05-03	26-03-04			09-09-05	05-12-05	31-01-06	28-02-06			Undertakings To be completed
2003-1712(IT)G	02-05-03	03-07-03	19-04-04	24-06-04	30-09-04	30-11-04	31-01-05	03-03-05	04-04-05	30-05-05	Judgment 27-10-05
2003-645(IT)G	29-01-03 02-10-03	17-11-03									Held pending FCA Decision on motion 26-01-04

2003-912(IT)G	06-03-03											Held pending FCA Decision 04-07-03
2003-1209(IT)G	16-06-03	31-07-03	30-04-04	09-06-04	18-06-04	30-06-04	30-07-04 31-10-04 15-01-05	31-08-04 31-12-04 31-01-05	04-02-05	19-05-05		Judgment 27-09-05
2003-1240(IT)G	27-03-03	02-07-03			15-01-05	15-05-05 30-09-05 03-02-06		17-10-05				Written questions Tba by 03-02-06 Hearing – Spring 06
2003-1404(IT)G	15-04-03	10-06-03	14-10-04	17-11-04					10-11-04	25-02-05		Judgment 12-07-05
2003-474(IT)G	31-01-03 18-09-03	30-05-03	14-04-04	19-05-04					08-07-04	17-11-04		Judgment 05-08-05
2003-2541(IT)G	10-07-03	08-10-03										C/Judgment 22-01-04
2003-1612(IT)G	21-04-03	03-06-03	04-05-03	18-06-04								C/Judgment 16-06-04
2003-1197(IT)G	27-03-03	02-07-03			15-01-05	15-05-05 30-09-05 03-02-06		17-10-05				Written questions Tba by 03-02-06 Hearing – Spring 06
2003-1229(IT)G	27-03-03	02-07-03			15-01-05	15-05-05 30-09-05 03-02-06		17-10-05				Written questions Tba by 03-02-06 Hearing – Spring 06
2003-417(IT)G	15-01-03	31-03-03	13-01-04 05-04-04	18-02-04 19-04-04								N/W 27-04-04
2003-540(IT)G	04-02-04	09-05-03										N/W 30-10-03
2003-1519(IT)G	22-04-03	09-06-03										C/Judgment 24-03-04
2003-1544(IT)G	22-04-03	06-06-03										C/Judgment 15-03-04
2003-2195(IT)G	11-06-03	25-08-03	17-08-04	07-10-04								C/Judgment

											13-10-04
2003-3708(IT)G	20-10-03	19-01-04	28-07-04	25-11-04	28-02-05	31-05-05	30-06-05	31-07-05			N/W 12-04-05
2003-4126(IT)G	18-11-03	31-05-04	05-11-04	09-12-04	31-01-05	31-03-05	30-04-05	31-05-05			C/Judgment 15-06-05
2003-4487(IT)G	16-12-03	06-04-04									N/W 03-06-05
2003-195(IT)G	13-01-03	13-03-03	16-01-04	18-02-04						11-05-04	Judgment 29-06-04
2003-2257(IT)G	19-06-03	30-09-03			15-02-04	26-03-04	15-04-04	14-05-04			N/W 18-11-04
2003-2357(IT)G	09-09-03	17-11-03	07-09-04	27-10-04		31-12-04	31-01-05	02-03-05	02-03-05	31-05-05	C/Judgment 09-06-05
2003-2448(IT)G	27-06-03	08-09-03	14-07-04 10-09-04	09-09-04 13-01-05	15-04-05 30-05-05	31-05-05 30-06-05	30-06-05 29-07-05	15-07-05 29-08-05			N/W 06-09-05
2003-2675(IT)G	25-07-03	07-10-03	30-04-04	03-06-04	30-06-04	15-08-04	15-09-04	15-10-04	29-11-04	15-02-05	N/W 11-04-05
2003-753(IT)G	21-02-03	29-04-03	11-02-04	22-04-04		09-07-04	30-07-04	31-08-04	20-08-04	29-11-04	Judgment 07-12-04
2003-1059(IT)G	07-03-03	26-05-03	19-04-04	24-06-04	27-08-04	06-10-04	20-10-04	29-10-04			Judgment 31-01-05
2003-1307(IT)G	04-04-03	12-09-03 10-10-03	19-04-04	24-06-04	30-07-04	29-10-04	30-11-04 15-01-05	14-01-05 15-02-05			C/Judgment 27-07-05
2003-2109(IT)G	09-06-03	14-07-03	19-04-04	14-06-04	30-07-04	30-09-04 14-10-04	29-10-04 31-12-04	30-11-04 28-01-05			N/W 18-05-05
2003-308(IT)G	21-01-03 02-12-03	25-04-03							23-05-03	26-01-04	Judgment 08-03-04
2003-1011(IT)G	13-03-03	26-06-03	12-03-04	20-05-04 16-06-05	31-08-04	31-10-04 15-06-05	30-11-04 30-06-05	31-12-04 14-02-05 30-07-05	28-07-05	12-01-06	Awaiting hearing
2003-1151(IT)G	24-03-03										N/W 23-06-03
2003-1483(IT)G	22-04-03	06-06-03									Held in abeyance Since Sept.03 Awaiting reply From parties by 15-12-05

2003-809(IT)G	22-02-03 09-02-04	29-04-04										To be scheduled For case management
2003-1812(IT)G	14-05-03	28-07-03	20-07-03	23-09-03 21-10-04	30-11-04 20-06-05	28-02-05 15-07-05	29-04-05 30-08-05	27-05-05 30-09-05				Death of appellant Awaiting instructions From trustee
2003-1977(IT)G	29-05-03	02-09-03	20-07-04	23-09-04 04-10-05	30-11-04	31-01-05 29-04-05	31-03-05 30-06-05	02-05-05 29-07-05		13-02-06		Awaiting trial
2003-2339(IT)G	20-06-03	24-11-03	15-10-04	02-12-04	31-01-05	28-02-05 31-08-05	28-02-05 30-09-05	31-03-05 31-10-05	31-10-05	03-03-06		Awaiting trial
2003-3052(IT)G	28-08-03	10-11-03	13-10-04	17-11-04 31-05-05		30-01-05	15-03-05 29-07-05 30-09-05	29-04-05 29-08-05 31-10-05		12-01-06		Pre-Hearing 12-01-06
2003-3492(IT)G	18-09-03	02-12-03	07-09-04 07-08-05	27-10-04 07-10-05		28-02-05 31-05-05 15-12-05	15-04-05 15-05-05 30-01-06	30-04-05 30-05-05		13-02-06		Pre-Hearing 13-02-06
2003-3815(IT)G	27-10-03	16-01-04			30-09-04	30-11-05	31-12-05	31-01-06				Awaiting response From parties
2003-4012(IT)G	04-11-03	05-01-04	07-09-04	27-10-04	30-11-04 31-10-05	31-03-05 30-11-05	29-04-05 30-12-05	30-05-05 27-07-05 31-01-06				Awaiting response From parties
2003-4582(IT)G	17-12-03 24-03-04	01-03-04	06-10-04 27-10-04	25-11-04 05-11-04	10-12-04	29-04-05	30-05-05					Awaiting response From parties

