



News Release

For Immediate Release
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Federation challenges Income Tax Act provisions

The Federation of Law Societies of Canada is challenging provisions of the *Income Tax Act* (the Act) that require legal counsel to report confidential information about their client's activities to the Canada Revenue Agency (CRA). The provisions infringe on rights under the *Canadian Charter of Rights and Freedoms* and principles of fundamental justice that exist for the benefit of the people of Canada.

"Canadians place a high value on their constitutional protections, including those that ensure that legal advisors are not required by the State to choose between their personal interests and their legal and ethical duties toward their clients", Federation President Jill Perry said.

The Federation filed an application in the British Columbia Supreme Court on September 11, 2023, challenging the constitutionality of the application of recent amendments to the mandatory reporting obligations in the Act to members of the legal profession. The application seeks to exempt legal counsel from the obligation of taxpayers, promoters, and advisors, including legal counsel, to provide details to the CRA of transactions that may constitute tax avoidance.

The Federation and its 14 law society members, who collectively regulate Canada's 141,000 lawyers, 3,825 Quebec notaries, and Ontario's 10,600 paralegals in the public interest, support the government's attempts to crack down on tax avoidance activities, but the means chosen must respect important legal and constitutional principles.

The case raises many of the same issues involved in the Federation's successful challenge to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada (Attorney General) v. Federation of Law Societies of Canada, 2015 SCC)*. Requiring legal counsel to report to a government agency on their clients' activities causes an irreconcilable conflict with the legal and ethical duties lawyers and other legal professionals owe to their clients. Backed by penalties that include large fines and the possibility of imprisonment for noncompliance, the legislation forces legal counsel to choose between their own interests and those of their clients. This conflict undermines the duty of commitment to the client's

cause, a duty found by the Supreme Court of Canada in the Federation's 2015 case to be a principle of fundamental justice. As a result, the legislation violates section 7 of the *Charter*. The obligation for legal counsel to report confidential information to the CRA also violates the protection from unreasonable search and seizure in section 8 of the *Charter*.

The Federation is seeking an injunction exempting legal counsel from the challenged provisions of the *Act* pending a hearing of its application. The Government of Canada has consented to a 30-day injunction suspending application of the provisions to members of the legal profession, pending a hearing on the Federation's injunction application.

A Backgrounder with additional information on the Federation's constitutional challenge is available [here](#).

For more information about this release, or to acquire a high-resolution photograph of the President of the Federation, please contact:

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