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Greek Protests Over Tax Hikes Might Work

Date: October 13, 2010

Vern Krishna

Canadians must enjoy being taxed. Why else would we placidly tolerate a tax regime that is so mind-numbingly complex, incomprehensible and expensive?

The Income Tax Act is the largest and most complicated statute in Canadian law. The sheer volume of legislation (expanded and amended annually), regulations, changing administrative practices, new treaties and judicial decisions means that no single person can ever expect to fully understand the entire tax law in one lifetime.

We are at a critical junction. Individuals who do not have even the remotest understanding of tax law must, under threat of civil and criminal sanctions, comply with the fiction that everyone is presumed to know the law. The only way that individuals can comply, as they are required to do in a self-assessment system, is by retaining expensive tax professionals.

Lawyers and accountants are necessarily expensive. They too must cope with the complexity, volume and uncertainty of tax law. Without full and detailed diligence, tax professionals are at risk. To insure against this risk, tax lawyers and accountants must spend many hours to capture ever-changing laws. Under the third-party advisor rules, the Minister can assess substantial financial penalties against advisors who he considers to be culpable in advising their clients. This, in addition to the potential for professional malpractice, virtually guarantees that the cost of professional advice will continue to escalate.

Individuals cannot be expected to respect a system that makes them victims of its incomprehensible language and unintended consequences. Taxpayers who cannot understand the law will not comply with it and, if they do, the costs of monitoring their compliance will increase substantially. We see the virtual collapse of tax and financial systems through tax avoidance in countries such as Greece, Italy and France.

Canadians are losing faith in the integrity of their government's tax system. Tax revolts are not unheard of in history. Governments need to be vigilant that they retain the confidence of the people.

The need to simplify the tax system is imperative. In less than one century, Canada has managed to grow a modest 12-page enactment into a monolithic and incomprehensible, virtually illiterate, statute.

A law that is incomprehensible to citizens is also incapable of fair administration. There is absolutely no evidence to suggest that the Canada Revenue Agency has any better understanding of the law than do taxpayers. Indeed, quite the contrary.

Few tax administrators actually read the statute; most rely slavishly on their own internal interpretative bulletins.

If the legal system presumes every person to know the law, then the state has a moral obligation to ensure that an average intelligent person should be able to read and understand the laws that directly affect him or her. In income tax law, we are a long way from writing legislation that ordinary intelligent people can understand. Canada continues to adhere to the English tradition of legislative drafting that every section of the Income Tax Act should be contained in one sentence, no matter how long.

Hence, we have single sentences running three pages! Unfortunately, our legislative drafters do not have Dickensian writing skills to cope with such length.

Given the complexity of business, tax statutes must, to some extent, be structurally complex. There is no reason, however, to exacerbate the situation through linguistic torture. A citizen should be entitled to read the law by which he or she is governed.

As the tax system becomes increasingly complex and expensive, individuals lose the ability to understand and comply with the law. The law becomes a vague abstraction with which they cannot identify. Tax simplification is now an economic, political and moral imperative.

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