

# Inconsistent Assessments by CRA

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*McAdams v Canada*, [2014 FCA 99](#)

This was an appeal from an Order of the TCC dismissing the Taxpayer's motion to strike the Crown's reply to a Notice of Appeal.

The taxpayer argued that the Minister is not able to take a position that is inconsistent with an assessment issued against another taxpayer (a rust in this case) as that assessment is deemed valid and binding pursuant to 152(8) of the *Income Tax Act*, unless that assessment is varied, vacated, or the other taxpayer is reassessed. The Taxpayer argued that this amounts to a collateral attack on the other taxpayer's assessment.

The FCA stated that the "Minister may issue inconsistent assessments pending the resolution of the dispute" ([Antle v. Canada, 2010 FCA 280](#), *Hawkes v. Canada*, 97 DTC 5060). In this case, the initial assessment of the other taxpayer may not reflect the correct result, and it is not "plain and obvious that the Minister, having initially assessed the trust on the basis of the trust's 2001 tax return, is precluded from assessing what he now believes to be the correct tax in the hands of Mr. McAdams ( [M.N.R. v. JP Morgan Asset Management \(Canada\) Inc., 2013 FCA \[250\]](#)), or from defending that assessment on the basis stated in the reply."

- **Sas Ansari, JD LLM PhD (exp)**

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