

Out-of-province bank accounts are no longer immune from scrutiny by Quebec tax authorities, says the Supreme Court of Canada

July 10, 2019

In the recent decision in **1068754 Alberta Ltd . v. Agence du revenu du Québec**, the Supreme Court of Canada confirmed a Quebec Court of Appeal decision permitting Quebec's tax authorities to require the production of bank records of the Calgary branch of a financial institution doing business in Quebec.

As part of an audit of the Alberta trust DGGMC Bitton Trust (Trust), the Agence du revenu du Québec (ARQ) sought to determine whether the Trust was resident in Quebec and, if so, whether taxes were owed in Quebec. To do so, the ARQ sought the production of the Trust's bank records from a Calgary branch of the National Bank of Canada (National Bank) via a request under section 39 of the Quebec Tax Administration Act. The formal demand for information and documents was sent directly to the branch rather than to National Bank's head office in Quebec in order to comply with the requirements of subsection 462(2) of the Bank Act, which states that demands be sent to the branch where the account is located.

The debate focused on whether the ARQ was compelled by the Bank Act to send the demand to the Calgary ranch, and if in so doing the ARQ acted extraterritorially. The Superior Court of Quebec dismissed the Trust's application to strike the ARQ's demand, finding that the demand did not constitute a seizure. Thus, the ARQ could send demands in other provinces, such as Alberta. Subsequently, the Quebec Court of Appeal found, in favour of the ARQ, that the demand was indeed a seizure as it infringed on an expectation of the Trustee's privacy, but that the ARQ had not exceeded its territorial jurisdiction under the Bank Act.

The Supreme Court, in a unanimous decision authored by Justice Rowe, decided that the ARQ's demand addressed directly to the Calgary branch was indeed a seizure, but did not constitute an extraterritorial act. Subsection 462(2) of the Bank Act does not treat the branch as distinct from the larger National Bank. Most importantly, the National Bank, as a corporate entity, operates within the territory of Quebec. Thus, for the purposes of the analysis under subsection 462(2), the Supreme Court considered the National Bank to be a single entity, and its branches are not considered to be distinct corporate entities. On the other hand, if a corporate entity does not have operations in Quebec, the validity of the ARQ's demand would be less certain.

By

[Daniel Grodinsky](#)

Expertise

[Banking & Financial Services](#), [Securities Disputes](#), [Banking](#), [Financial Services Regulatory](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.