

Federal Court



Cour fédérale

**Ottawa, July 22, 2019** – A decision was issued today by the Honourable Anne Mactavish in file T-1736-14:

**IN THE MATTER OF GWENDOLYN LOUISE DEEGAN ET AL v. THE ATTORNEY GENERAL OF CANADA ET AL**

**Summary:** In this action, the Plaintiffs challenged the constitutionality of the *Canada-United States Enhanced Tax Information Exchange Agreement Implementation Act* and sections 263 to 269 of the *Income Tax Act* (the “Impugned Provisions”), both of which implement an intergovernmental agreement between Canada and the United States. Under this agreement, the Canada Revenue Agency shares banking information with respect to taxpayers resident in Canada who are “U.S. persons” with the American Internal Revenue Service.

The Plaintiffs contended that the Impugned Provisions result in the unreasonable seizure of financial information belonging to U.S. persons living in Canada, contrary to section 8 of the *Canadian Charter of Rights and Freedoms*. Section 8 provides that “[e]veryone has the right to be secure against unreasonable search or seizure”.

The Plaintiffs further asserted that the Impugned Provisions impose a burden on such persons because of their citizenship or their national or ethnic origin, contrary to subsection 15(1) of the Charter. Subsection 15(1) of the Charter provides that “[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability”.

Following a summary trial, the Court concluded that although the Impugned Provisions result in the seizure of the banking information of U.S. persons residing in Canada, affected individuals have only a limited expectation of privacy in their banking information, and that seizures carried out pursuant to the Impugned Provisions are not unreasonable. As a consequence, they do not violate section 8 of the Charter.

The Court further concluded that although the Impugned Provisions draw a distinction based on the enumerated and analogous grounds of national origin and citizenship, any such distinction is not discriminatory and thus does not violate section 15 of the Charter.

Consequently, the Plaintiffs’ action was dismissed.

A copy of the decision can be obtained via the Web site of the Federal Court: <https://decisions.fct-cf.gc.ca/fct-cf/decisions/en/item/418707/index.do>

The audio recording of the summary trial is available at: <https://www.fct-cf.gc.ca/en/pages/media/webcast#cont>