

IN THE SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY

Citation: Wilcox (Re), 2014 NSSC 291

Date: August 1, 2014

Docket: 36792

Registry: Halifax

District of Nova Scotia
Division No. 1
Court No. 36792
Estate No. 51-1681518

In the Matter of the Proposal of Darrell Joseph Wilcox

Library Heading

Registrar: Richard W. Cregan, Q.C.

Heard: May 22, 2014, in Halifax, Nova Scotia

Subject: The extent to which the Canada Revenue Agency (“CRA”) is bound by the terms of a Division I Proposal under the *Bankruptcy and Insolvency Act*, where the tax year is split for Proposal purposes.

Summary: The debtor had provided CRA with a provisional return to assist it in making a provisional proof of claim. The Proposal was accepted by the creditors including CRA. A final return was submitted. Eventually an assessment was issued which stated that the tax for the pre-proposal provisional period should be the amount in the provisional return which was less than the amount in the final return. As well, interest and penalties were assessed against the debtor as CRA alleged that the final returns were filed late.

Result: It was held that the pre-proposal tax subject to the proposal was the amount in the final return and not the lesser amount in the provisional return and that to the extent interest and penalties were assessed against this amount, CRA was not entitled to impose them.