

Tax

Why I have a Bearded Dragon and a Bichon Frisé on my website | David Rotfleisch

By **David Rotfleisch**

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(November 18, 2022, 12:36 PM EST) -- OK, admit it.

That headline struck you as either odd, eccentric, mildly amusing, or at least quirky. Let me assure you that the reason I have Enchantée, a Bichon Frisé, and GAAR-field, a Bearded Dragon, on my website is none of these.

Let me explain.

When I started my tax law firm, Rotfleisch & Samulovitch back in 1987, I knew that I wanted to be independent. Back in those days, the career path for a Canadian tax lawyer was to join the tax department of one of the big Bay Street firms in Toronto. For me, that had zero appeal.

I spent almost a decade becoming both a chartered accountant and a tax lawyer. I had a lot of education, ambition and a plan. So, I planned my work — and worked my plan.

Clients came. The Internet came. I hired tax lawyers and support staff. Web V2.0 came. By the mid-1990s, my business was humming.

At about the same time, millennials and Gen Z arrived in the workplace. They wanted different things: they wanted more work-life balance, more responsibility, more recognition, less stodgy office décor and decorum. Bottom line: neither tax lawyers nor staff wanted to, essentially, check their personality at the door when they came to work.

I felt the same; being a tax lawyer is what I do to earn a living, but it doesn't define me as a person. I travel quite a bit every year. I love to cook and am particularly fond of the sous-vide technique. I am an avid photographer and have large prints of my work on the walls of our Danforth Avenue office. I love rum punch. I appreciate witty banter and a good joke. I am a student of jazz music. I seldom wear suits to work.

For me, doing the tax work was easy — almost table-stakes. What was harder was finding clients. When you're in business for yourself, you're a business owner first, and a tax lawyer second.

At a photo shoot about nine years ago, I arrived with Enchantée, my now 12-year-old Bichon Frisé. She mugged for the camera. We ended up with some great shots of her and me. I put those photos up on our website. One of those photos of me and Little Miss Personality was published by *The Globe and Mail* in 2019.



Rotfleisch and Enchantée

I soon learned that Enchantée was not only cute, she was good for business! I got at least two quite large tax clients because they like the photos of her on our website. And these clients made a point of telling me so. Animals do a great job of getting clients to talk about something other than their tax problems. They also help to humanize the tax lawyer-client relationship.

Fast forward to fall 2022 when we had another photo shoot of our Canadian tax lawyers for our now five websites. We decided to include photos of me with GAAR-field, a 5-year-old male Bearded Dragon who lives in a terrarium in our reception area. GAAR-field holds the title of "Tax Fairness Defender."

His first name is an "inside tax joke" and refers to the general anti-avoidance rule (GAAR) of Canada's *Income Tax Act*.

The GAAR is an all-encompassing rule that prevents abusive tax avoidance transactions while not interfering with legitimate commercial and family transactions. The GAAR was intended to strike a balance between taxpayers' needs for certainty in planning their affairs and the government's responsibility to protect the tax base and the fairness of the tax system. It was added to Canada's *Income Tax Act* in 1988.

However, the GAAR rule churns up a storm cloud of uncertainty over tax planning transactions. The courts have provided some guidance over the past 30 years, with the Supreme Court of Canada becoming involved in the last 15 years, resulting in tests to be applied:

- Was there a tax benefit?
- Was the transaction giving rise to the tax benefit an avoidance transaction?
- Was the avoidance transaction giving rise to the tax benefit abusive?

Of course, GAAR can only be applied by the Canada Revenue Agency (CRA) when they come across a juicy tax planning transaction, which was often a haphazard stumbling exercise. So, to complete the circle the Department of Finance has recently introduced mandatory tax transaction reporting requirements that, in essence, will point the CRA to transactions where GAAR is essentially applicable.

So, GAAR-field really has a field day compared to us GAAR-analyzing tax lawyers.



Rotfleisch and GAAR-field

So, what types of things does GAAR-field “avoid”? Office work, government bureaucracy, family obligations, crafts and hobbies, computers, laundry, vacuuming, mowing the lawn and all other household chores. That leaves eating, basking under his heat lamp, and sleep, including frequent naps. GAAR-field is on permanent vacation!

The habitat of the Bearded Dragon is the dry grasslands of Australia. Our GAAR-field comes from a breeder in the United States. He also enjoys the occasional snuggles, warm baths and literally “hanging out” with the office staff with the help of his very large claws. He believes that this is a fair deal in exchange for his company.

He eats a diet of juicy worms and different greens along with his calcium supplement. He’s very friendly and always fun to watch. Several times a week, he gets to prowl around our office to get exercise.

Say “hello” to GAAR-field and Enchantée, our conversation ice-breakers and marketing associates.

We also have an aquarium in the reception area, but for some reason the fish don’t do well when people play with them.

And, yes, I wear beige suits sometimes. But so does Barack Obama. And he gets ribbed about that, too. Like I said, even though I am a tax lawyer, I have a healthy sense of humour.

David J. Rotfleisch is the founding tax lawyer of Rotfleisch & Samulovitch P.C., a Toronto-based boutique tax law and corporate law firm. He appears regularly in print, radio and TV. With over 35 years of experience as both a tax lawyer and chartered professional accountant, he has helped startup businesses, resident and non-resident business owners and corporations and cryptocurrency traders with their tax planning, with will and estate planning, voluntary disclosures and tax dispute resolution including tax audit representation and tax litigation.

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