

THE CANADIAN JUDICIAL SYSTEM

The Constitutional Framework

Under the *Constitution Act, 1867*, Canada's judicial powers are divided between the federal government and the ten provincial governments of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland. As a result there is considerable overlap between jurisdictions, requiring close co-operation between all levels of courts in Canada.

The Court Structure in Canada

There are four levels of courts in Canada consisting of the Supreme Court, the Courts of Appeal, the Supreme or Superior Courts of the Provinces, and the Provincial Courts and Administrative Tribunals:

Supreme Court of Canada

The Supreme Court of Canada is the highest court in Canada, with nine judges including a Chief Justice, and a minimum of three judges coming from Quebec. It has jurisdiction over disputes in all areas of the law, including constitutional law, administrative law, criminal law and private law.

In most cases, leave is required to appeal to the Supreme Court from either the federal or a provincial court of appeal. It may also be granted where a case involves a question of public importance, or an issue of law or mixed law and fact warranting consideration by the Court. Leave is not required in criminal cases where acquittal has been set aside in the provincial court of appeal or where, in the provincial court of appeal, one judge dissents on a point of law.

The Supreme Court also has a special reference jurisdiction, whereby the Federal Government may refer to the Court, for its opinion, important questions of law or fact on any matter, which may include, but is not limited to, the interpretation of the Constitution, any federal or provincial legislation, or the powers of Parliament, provincial legislatures or their respective governments.

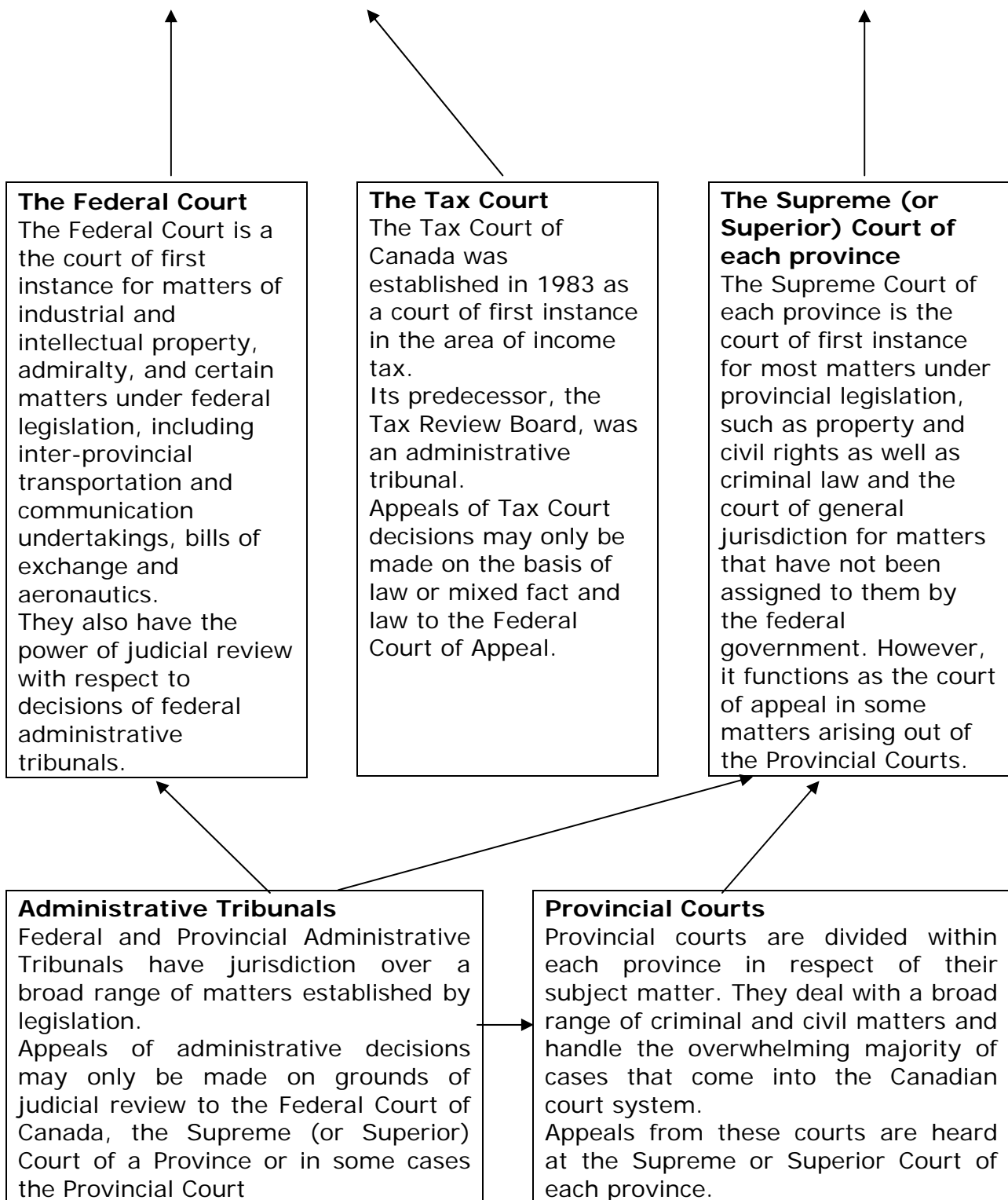
Constitutional questions may also be raised in regular appeals involving individual litigants or governments or governmental agencies. In such cases the federal and provincial governments are notified of the constitutional question and may intervene to argue it.

The Federal Court of Appeal

The Federal Court of Appeal hears appeals from the Federal Court and the Tax Court, on issues of law or mixed fact and law only.

The Provincial Courts of Appeal

The Provincial Courts of Appeal hear appeals from the Supreme or Superior Court of their respective province on issues of law or mixed fact and law only. Two of the provincial Supreme Courts also function as the courts of appeal for the three federal territories in northern Canada, the Yukon Territory, the Northwest Territories, and the Nunavut Territory.



Source: http://www.scc-csc.gc.ca/aboutcourt/system/index_e.asp

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