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Publisher's Note

2022 — Release 1

Previous release was 2021-3

From Your Library:

Canadian Value-Added Taxation — A Practitioner's Guide

Chapter 2 (Taxable Supplies), Chapter 3 (Exempt Supplies), Chapter 5 (Collection and Payment), Chapter 6 (Administration and Enforcement), Chapter 8 (GST and Provincial Sales Tax), and Chapter 11 (Special Sectors)

Highlights

This release updates the following chapters:

- **Chapter 2 — Taxable Supplies — Supply — Consideration — Combined Consideration — Reasonable Allocation —** Where the registrant operated a recreational amusement park, which included beekeeping activities, and the entrance fee included obtaining a zero-rated food product and access to a maze and trails, which was a taxable supply, the allocation of the fee paid, for GST purposes, must be reasonably split

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between the compulsory food product, and access to the maze: 9056-2059 *Quebec Inc. c. The Queen*, 2022 TCC 6 (T.C.C.).

- **Chapter 3 — Exempt Supplies — Financial Services — Loyalty Program — Ancillary Administrative Services — Financial Services** — Where President’s Choice Bank and CIBC in separate appeals challenged the assessments based on the 2009 decision, which found ancillary services were part of financial services, cause of action estoppel did not apply as the Tax Court, in the 2009 decision, did not have to consider the scope of the application of the new paragraph (r.4) to the *Excise Tax Act*, which excluded services that were preparatory to the provision of or potential provision of a service in s. 123(1) of the ETA: *Canadian Imperial Bank of Commerce v. The Queen*, 2022 TCC 26, 2022 CarswellNat 94, 2022 TCC 26 (T.C.C. [General Procedure]).
- **Chapter 5 — Collection and Payment — When Tax Payable — Contract Silent — HST Added to Contract Price** — Where there was a written contract between the parties for the disassembly, transport and relocation of a church organ at the price of \$28,000, and one aspect of the contract price, which was not specified, was whether the Harmonized Sales Tax of 15 per cent was added as a term of the contract, the Nova Scotia court applied B.C. jurisprudence in determining that HST was to be added to the contract price: *Acadia Pipe Organs Ltd. v. Varna* 2022 CarswellNS 21, 2022 NSSM 5 (N.S. Small Cl. Ct.)..
- **Chapter 6 — Administration and Enforcement — Audit — Rights and Obligation — Taxpayer Denying Receipt of GST and CCB benefits — Credits Deposited into Bank Account — Bank Ordered to Provide Names of Persons Associated With Account** — Where the taxpayer alleged that she did not receive GST and Canada Child Benefit (CCB) credits, which were deposited by the CRA into a bank account apparently authorized by her, the Minister was granted an order directing the bank to provide the names and addresses of certain unnamed persons who were associated with the specified bank account: *Canada (National Revenue) v. Royal Bank of Canada*, 2021

CarswellNat 2989, 2021 CarswellNat 6662, 2021 FC 830, 2021 CF 830, 2021 D.T.C. 5098, (F.C.).

- **Chapter 6 — Administration and Enforcement — Audit — Pre-trial Documentary Discovery** — In the context of pre-trial documentary discovery, a party was entitled to “any information, and production of any documents, that may fairly lead to a train of inquiry that may directly or indirectly advance his case, or damage that of the opposing party”: See *Teeluck-singh v. The Queen*, 2010 TCC 94, 2010 DTC 1085; *Express Gold Refining Ltd. v. The Queen*, 2022 TCC 33, 2022 CarswellNat 407 (T.C.C. [General Procedure]).
- **Chapter 6 — Administration and Enforcement — Appeals to Federal Court of Appeal — Appeal from Denial of Motion to Compel Release of Refund — Appeal Dismissed as Statutory Right of Appeal to the Tax Court** — Where the registrant’s motion for mandamus to compel release of a refund pending conclusion of the Minister’s on-going audit and assessment was dismissed, and the registrant appealed, the Federal Court of Appeal lacked jurisdiction where seeking the refund was an attempt to short-circuit the recourse mechanisms established by Parliament, and there was a statutory right of appeal to the Tax Court from the assessment: *Iris Technologies Inc. v. Canada (National Revenue)*, 2022 FCA 39, 2022 CarswellNat 444 (F.C.A.), affirming (2020), [2021] G.S.T.C. 14, 2020 CF 1133, 2020 CarswellNat 6299, 2020 CarswellNat 6298, 2020 FC 1133 (F.C.).
- **Chapter 6 — Administration and Enforcement — Offences — Tax Evasion — Fraud and ETA Offences** — Where the accused made false GST returns, claiming improper refunds based on fabricated invoices, they were convicted of fraud, making false statements, and obtaining refunds to which they were not entitled: *R. v. Young*, 2022 NSSC 58, 2022 CarswellNS 121 (N.S. S.C.).
- **Chapter 6 — Administration and Enforcement — Offences — Tax Evasion — Fraud** — Where the accused made false GST returns, claiming improper refunds based on fabricated invoices, they were convicted of fraud, making false statements,

and obtaining refunds to which they were not entitled: *R. v. Young*, 2022 NSSC 58, 2022 CarswellNS 121 (N.S. S.C.).

- **Chapter 6 — Administration and Enforcement — Offences — Directors and Officers — Whether Director Resigned —** For the resignation of a director to be effective under the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16, the filing of a Form 1 – Initial Return/Notice of Change stating that the director had resigned, was not sufficient to satisfy the requirement that the resignation be in writing, and have been received by the corporation: *Cliff v. Canada*, 2022 FCA 16, 2022 CarswellNat 176 (F.C.A.),
- **Chapter 11 — Special Sectors — Real Property — New Residential Rental Property Rebate — Taxpayer Deciding Not to Occupy Unit — Repaying New Housing Rebate After Reassessed — Application for New Rental Rebate Denied as Beyond Two-Year Deadline —** Where the taxpayer purchased a condominium unit to occupy, but changed her mind and rented her unit, and repaid the New Housing Rebate after two years when she first became aware of the reassessment, her subsequent application for the New Rental Rebate was denied as her application missed the two-year deadline under subs. 256.2(7) of the *Excise Tax Act*: *Pawar v. The Queen*, 2022 TCC 4, 2022 CarswellNat 56 (T.C.C. [Informal Procedure]).