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Publisher's Note

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Canadian Value-Added Taxation — A Practitioner's Guide

This release updates the following chapters:

Chapter 2 (Taxable Supplies), Chapter 3 (Exempt Supplies), Chapter 5 (Collection and Payment), Chapter 6 (Administration and Enforcement), and Chapter 11 (Special Sectors)

Highlights:

- **Chapter 2 — Taxable Supplies — Zero-rated Supplies — Financial Services — Foreign Interchange Fees — ITCs Allowed — Redemption of Loyalty Reward Points — Non-Resident Merchants — No “Commercial Activity” — ITCs Not Allowed** — Input tax credits (ITCs) were allowed for the GST paid by the registrant bank on expenses incurred to earn interchange fees from non-resident merchants for its credit card authorization and payment service as the service was character-

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ized as the granting of credit, which was a zero-rated supply. On the other hand, the registrant was not entitled to claim ITCs on the expenses incurred in the redemption of loyalty reward points that might have accrued to customers involved in the transactions with the non-resident merchants, as no commercial activity was present: *Royal Bank of Canada v. The King*, 2024 TCC 125, 2024 CarswellNat 3808 (General Procedure).

- **Chapter 3 — Exempt Supplies — Residential Property Exemption — Building and Occupying Home — Sale of Home Exempt From GST/HST** — Where siblings purchased a property and demolished the existing building, and built a new home, and occupied the home as their residence, the sale of the property was exempt from GST/HST, even if the court determined them to be a “builder”: *Nicosia v. The King*, 2024 TCC 112, 2024 CarswellNat 3383, [2024] G.S.T.C. 40 (General Procedure).
- **Chapter 5 — Collection and Payment — Calculation of Tax Collectible — Joint Venture — Combined Fees — Registrant Collecting Half of Fees as Agent For Other Foreign Party — Half of Fees Not Subject to GST** — Where the registrant was in a joint venture with a Mexican surgeon to promote and arrange for bariatric surgery to be performed on Canadian patients in Mexico, and the registrant collected from the patients a combined fee for the pre-operative and post-operative services of the registrant, and the surgical services of the Mexican surgeon, the portion of the fees held and then remitted to the surgeon were held on an implied agency basis, and GST or HST was not required to be collected: *MELP Enterprises Ltd. v. The King*, 2024 TCC 130, 2024 CarswellNat 3949 (General Procedure).
- **Chapter 6 — Administration and Enforcement — Notices of Assessment — Composite Notice Reassessment — Multiple Reporting Periods — Procedural Considerations** — Where the Minister of National Revenue issued multiple reassessments for multiple reporting periods, and the reassessments were embodied in a composite Notice of Reassessment, the Tax Court provided procedural considerations in *MELP Enterprises Ltd. v.*

The King, 2024 TCC 130, 2024 CarswellNat 3949 (General Procedure).

- **Chapter 6 — Administration and Enforcement — Time Limitations — Reassessment Beyond Normal Assessment Period — Experienced Builder — Constructing Multi-Unit Residential Rental Property — Reliance on Accountant in Not Making Required Self-Supply — Registrant’s Principal Not Meeting Minimum Level of Engagement** — Where the registrant was an experienced builder, which relied on its accountant in not making the required self-supply in respect of a multi-unit residential rental complex, the Minister was entitled to reassess the registrant beyond the normal reassessment period as the registrant’s principal did not meet the minimum level of engagement that was required by leaving all of the responsibility in the accountant’s hands: *P.Q. Properties Ltd. v. The King*, 2024 TCC 126, 2024 CarswellNat 3846 (General Procedure).
- **Chapter 11 — Special Sectors — Real Property — New Residential Rental Property Rebate — Purchase of Two Homes for Rental Purposes — Family Members Signing Agreements — Homes Directed to be Registered in Their Corporation — Corporation Applying for Rebate — Rebate Denied as Corporation Not Recipient of Supply** — Where family members entered into agreements of purchase and sale to purchase two newly constructed homes for rental purposes, and pursuant to trust agreements the properties were registered in their corporation as the beneficiary, and the corporation applied for the New Residential Rental Property Rebate (NRRPR), its application was denied as the corporation was not the recipient of the supply: *Garg Investments Inc. v. The King*, 2023 CCI 67, 2023 TCC 67, 2023 CarswellNat 1533, 2023 CarswellNat 5835, 41 B.L.R. (6th) 260, [2023] G.S.T.C. 27 (Informal Procedure).
- **Chapter 11 — Special Sectors — Residential Property — Rental of New Condo Unit — “Qualifying Residential Unit” — New Residential Rental Rebate Allowed — Reasonable Expectation That First Tenancy For More Than One Year — Determination Made When Owner Having Right to Occupy Unit — Under Interim Occupancy** — In order to qualify for a new residential rental unit rebate, the definition of

“qualifying residential unit” was satisfied if the owner of a condo unit held a reasonable expectation that the first tenant would rent the unit for greater than a one-year period, and this could only be determined before and during the time that the actual first use occurred, when the owner had the right to occupy the unit under the concept of interim occupancy: *12329905 Canada Ltd. v. The King*, 2024 TCC 115, 2024 CarswellNat 3506, [2024] G.S.T.C. 47 (Informal Procedure).

- **Chapter 11 — Special Sectors — Residential Property — New Housing Rebate Allowed — “Primary Place of Residence” Requirement Satisfied — Although Applicant Having More Than One Residence** — In order to qualify for the GST/HST new housing rebate, the property must be acquired as the applicant’s “primary place of residence”, but the applicant could have more than one residence: *Gorgis v. The King*, 2024 TCC 109, 2024 CarswellNat 3294, [2024] G.S.T.C. 42 (Informal Procedure).
- **Chapter 11 — Special Sectors — Residential Property — New Housing Rebate Denied — “Primary Place of Residence” Requirement Not Satisfied — Residence Only Interim Place of Residence** — Although the applicant’s father entered into an agreement of purchase and sale to purchase a condominium unit being built in trust for the applicant, and by the time the applicant and his wife obtained title, they had the intention to reside in a townhouse they purchased, the applicant was not entitled to the GST/HST new housing rebate for the condominium as it was only used as their interim place of residence: *Loureiro v. The King*, 2024 TCC 113, 2024 CarswellNat 3382, [2024] G.S.T.C. 43 (Informal Procedure).
- **Chapter 11 — Special Sectors — Financial Services — Bank’s Redemption of Loyalty Points — “Commercial Activity” — Notional Input Tax Credits** — Where the taxpayer, PC Bank, claimed notional input tax credits for payments it made to Loblaws when clients redeemed loyalty points at the supermarket stores, the appellate court determined that the PC Bank made the redemption payment in the course of a “commercial activity” of the PC Bank pursuant to subs. 181(5) of the ETA: *President’s Choice Bank v. Canada*, 2024 CAF

135, 2024 FCA 135, 2024 CarswellNat 3190, 2024 CarswellNat 3171, [2024] G.S.T.C. 38, reversing *President's Choice Bank v. The Queen*, 2022 TCC 84, 2022 CarswellNat 2711, 2022 D.T.C. 1062, [2022] G.S.T.C. 50 (General Procedure).