

Index

(updated to Rel. 2024-3)

ABORIGINAL PEOPLES

burden of proof, rights, 4-609
Charter, rights and freedoms under
 s. 25, 19-58.3
 s. 35, 19-61
interpretation of tax statutes, 18-68.4

ABRIDGMENT OF TIME

see EXTENSION OF TIME

ABSTRACT QUESTIONS, 4-203

ABSURD RESULTS, 18-15

ABUSE OF POWER, 4-203

ABUSE OF PROCESS, 4-203

cases, 4-198
rule, 4-181

ACCOUNTING

bookkeeping entries, 17-12.10
expert evidence, 17-62

ADDING PARTIES

see CONSOLIDATION;
 INTERVENTION
see also SERVICE
generally, 4-96
Informal Procedure, 5-8
removal of counsel of record, 4-91, 4-98
rule, 4-97, 4-98

ADJOURNMENT

cases, 4-663
hearing, 4-663
Informal Procedure, 3-99
refusal of adverse witness to testify, 4-714
where witness absent, 4-671

ADMISSIBILITY, 17-6.2

ADMISSIONS

amendments, 4-277

authenticity, defined, 4-574

authority of A-G to admit facts, 4-575

cases, 17-6.4

judgments on admissions

Customs Act Part V.1 appeals, 9-23

 general procedure rules, 4-854.1

request to admit, 4-575

response to request to admit, 4-576, 4-907

withdrawal of admission, 4-579

ADVANCE RULINGS

estoppel, 17-35

extrinsic evidence, 18-97

ADVERSE PARTY

calling as witness, 4-714

ADVERSE WITNESSES, A-11 *et seq.*

AFFIDAVIT

admissibility, standard of review, 15-25

alterations, initialling, 4-57

contents of, 4-313

cases, 17-6.9

counsel, of, 4-310

cross-examination on, 4-320

evidence by, 4-310, 17-6.9

exhibits, 4-57

form, 4-878

generally, 4-57

illiterate/blind, 4-57

information and belief, 4-313

interlineations, erasure, 4-57

interpreted, 4-57

personal knowledge, 4-57

re-examination on, 4-326

remote, D-60, D-75

statements in, 4-58.1

striking, 4-316

supplementary, 4-326

sworn or affirmed, 4-58.1

withdrawing, 4-327

AFFIDAVIT OF DOCUMENTS

see LIST OF DOCUMENTS

INDEX

- AGENCY, 17-6.10
- AGGREGATE OF ALL AMOUNTS, 3-8
aggregate of supplies for the prior fiscal year, 3-10
- AGREEMENTS, 17-8.2
- AIR TRAVELLERS SECURITY CHARGE ACT*
APPEALS, 11-3
decisions, 11-15
- ALL DUE DISPATCH
see ASSESSMENT
- ALTERNATIVE ASSESSMENT
TECHNIQUES, 16-32.3
- AMALGAMATION/PLAN OF ARRANGEMENT,
4-255
- AMBIGUITIES, 18-17
- AMENDED INFORMAL PROCEDURE
REPLY, 3-96.2
- AMENDED TAX RETURN
see RETURNS, ASSESSMENTS, PAYMENT
AND APPEALS, s. 152(6)
- AMENDMENTS
admissions, 4-277
assumptions, 4-278
effect of non-compliance, 4-36
Interpretation Act, B-36 *et seq.*
judgments, accidental errors, 4-858
pleadings, 4-264 *et seq.*
Federal Court of Appeal, discretionary
decisions, 15-26
- AMOUNT IN DISPUTE, 3-9
- ANSWER
form, 4-886
rule, 4-169
time for delivery, 4-111
- APPEALS
see also FEDERAL COURT OF APPEAL;
JUDICIAL REVIEW; RETURNS,
ASSESSMENTS, PAYMENTS AND
APPEALS
cases, 16-91
history of, 22-1 *et seq.*
map, 3-5
separate Acts, 4-219
standing, 16-100.3
waiver of right to appeal, 16-100.5
- APPRAISAL, 17-65
- ARBITRARY ASSESSMENTS, 16-32.3
- ARGUMENT, 4-657, 4-660, 4-661
- ASSESSMENT
see also RETURNS, ASSESSMENTS,
PAYMENTS AND APPEALS
all due dispatch, 16-4.5
alternative or inconsistent assumptions, 4-148
alternative techniques, 16-32.3
annual affair under *ITA*, 16-4.7
arbitrary, 16-32.3
carryforwards, 16-4.7
compromise settlements, 16-5
contradictory assessments or assumptions
—burden, 4-621
contradictory, inconsistent, or alternative
assessments, 16-6
defined, 4-25
derivative, 4-264
estoppel, previous assessments, 17-36.02
generally, 16-4.1
GST nil assessment, 16-99
increase tax, 4-231
limitations on, 16-32
Minister cannot appeal from, 16-99
nature of and liability for tax, 16-8
net worth, 4-634, 16-32.3
nil, 16-8.7, 16-95
reassessment during appeal, 16-100.2
reassessment following amendment of return,
16-32
reassessment may nullify previous assessment,
16-88
reassessment of statute-barred years, 4-235
reassessment with taxpayer's consent, 4-240
reconstructed notices of assessment, 17-105
self-assessment, 16-9
sending and receipt, 16-10.06

INDEX

- ASSESSMENT *continued*
time to assess, 16-10.05
transferee of property and derivative assessments, 4-264
under *ETA* by reporting period, 16-4.7
validity, presumption of, 16-10.01, 16-34
- ASSIGNORS
examination for discovery, 4-453
transfer of interest in appeal, 4-77
- ASSOCIATE CHIEF JUSTICE
absence/incapacity, 3-20
defined, 3-7
rank/precedence, 3-20
- ATHLETIC ASSOCIATIONS
see CHARITIES
- AUDI ALTERAM PARTEM*, 4-657
- BAILIFFS
fees and expenses, 4-874, 4-918
service of documents, proof, 4-107
- BANKRUPTCY
cases, 4-256
examination for discovery, 4-453
jurisdiction, 4-219
transfer/transmission of interest, 4-77
- BARRISTER
see SOLICITOR
- BEST EVIDENCE RULE, 17-12.7
- BIAS, APPREHENSION OF, 3-13
- BIFURCATION *see* HEARING
- BILL OF RIGHTS*, 3-37
- BLIND PERSONS
affidavits, procedure, 4-57
- BLOCKED CURRENCY, 16-57
- BOARD OF REFEREES, 22-1 *et seq.*
- BOOKKEEPING ENTRIES, 17-12.10
- BUDGET SPEECHES, 18-68.6
- BURDEN OF PROOF
aboriginal rights, 4-609
allocation, 4-609
alternative basis for upholding assessment, 4-610
amended returns, 4-612
anti-avoidance provisions, 4-612
appraisal, 4-613
arbitrary assessments, 4-613
arbitrary assumptions, 4-613
assumptions based on hearsay, 4-613
assumptions made confirming assessment, 4-617
assumptions not communicated prior to reply, 4-617
assumptions not made, 4-618
assumptions not pleaded, 4-618
assumptions relating to criminal activity, 4-620
assumptions exclusively or peculiarly within Minister's knowledge, 4-613
bank deposit income calculation, 4-620
Charter breach, 4-620
confirmation of assessment, 4-617
contract of service, 4-620
contradictory assessments or assumptions, 4-621
default judgment (presumptions), 4-295
determination of losses, 4-621
director's liability, 4-621 *et seq.*
non-arm's length transfer assessments and, 4-621
employee or independent contractor, 4-625
employment insurance appeal, 4-625
exemptions, 4-626
expenses, 4-626
foreign taxes paid, 4-626
fraud, 4-627
GAAR, 4-627
generally, 4-597 *et seq.*
GST appeals, 4-629
method of income calculation, 4-629
misrepresentation and statute-barred reassessments, 4-630
net worth or other audit methods, 4-634
nonsuit motions, 4-639
notice of assessment-sending/receipt, 4-650
opinion evidence, 4-640
opinion of Minister, 4-640
other material facts, 4-641
penalties, 4-641

INDEX

- BURDEN OF PROOF** *continued*
- appeal from, 4-653
 - failure to file or remit, 4-641
 - generally, 4-641
 - gross negligence, 4-641
 - prima facie* case, 4-606
 - quashing late appeal, 4-649
 - secondary intention, 4-649
 - sham, 4-650
 - shareholder benefit, 4-650
 - shifting, 4-614
 - standard of proof, 4-652
 - statute-barred, 4-630, 4-650
 - transfer of property (*ITA* s. 160), 4-650
 - valuation, 4-651
 - waivers, 4-651
- BUSINESS RECORDS**, A-52 *et seq.*
- CANADA EVIDENCE ACT**
- annotations to, *see CANADA EVIDENCE ACT*
(ANNOTATIONS TO)
- contents, A-1
- text reproduced, A-3 *et seq.*
- CANADA EVIDENCE ACT (ANNOTATIONS TO)**
- s. 2 application, A-3
 - s. 3 interest or crime, A-3
 - s. 4 accused and spouse, A-4
 - s. 5 incriminating questions, A-6.1
 - s. 6 evidence of person with physical disability, A-7
 - s. 6.1 identification of accused, A-8
 - s. 7 expert witnesses, A-8
 - s. 8 handwriting comparison, A-9
 - s. 9 adverse witnesses
 - contradiction by other evidence, A-12
 - effect of prior inconsistent statement, A-25
 - may be proved on re-examination, A-28
 - meaning of inconsistent, A-24
 - procedure on application under subsec. 9(1), A-12
 - procedure on application under subsec. 9(2), A-17
 - refreshing memory with previous statement, A-19
 - relationship between ss. 9(1) and (2), A-14
 - statements in writing or reduced to writing, A-15
 - s. 10 cross-examination as to previous statements, A-28
 - judge's discretion, A-32
 - meaning of inconsistent, A-32
 - procedure under s. 10, A-29
 - proving prior inconsistent statement, A-32
 - relative to subject matter of case, A-29
 - statements in writing or reduced to writing, A-29
 - s. 11 cross-examination on oral statements
 - applies to both oral/written statements, A-35
 - effect of prior inconsistent statement, A-36.3
 - meaning of inconsistent, A-36
 - proving prior inconsistent statement, A-36.1
 - rebuttal evidence, A-36.2
 - re-examination, A-36.2
 - relative to subject matter of case, A-36
 - s. 12 examination as to previous conviction "on any offence", A-36.3
 - outstanding charges/other discreditable conduct, A-36.6
 - proof of conviction, A-36.8
 - s. 13 oaths and solemn affirmations who may administer oaths, A-36.8
 - s. 14 solemn affirmation by witness instead of oath, A-37
 - s. 15 solemn affirmation by deponent, A-37
 - s. 16 witness whose capacity is in question, A-38
 - s. 16.1 person under fourteen years of age, A-38.2
 - s. 17 judicial notice (*Imperial Acts, etc.*), A-39
 - s. 18 Acts of Canada, A-39
 - s. 19 copies by Queen's Printer, A-40
 - s. 20 Imperial proclamations, A-40
 - s. 21 proclamations, *etc.* of Gov. Gen., A-40
 - s. 22 proclamations of Lieutenant Governor, A-41
 - s. 23 evidence of judicial proceedings, *etc.*, A-42
 - s. 24 certified copies, A-45
 - s. 25/26 books and documents, A-46.01
 - s. 27 notarial acts in Quebec, A-46.2
 - s. 28 notice to produce book/document, A-46.3
 - s. 29 copies of entries, A-47
 - s. 30 business records
 - 7 days notice, A-60.6
 - application and probative value, A-60.6
 - explanation admissible, A-60.6
 - generally, A-52
 - inadmissible records, A-60.8

INDEX

CANADA EVIDENCE ACT (ANNOTATIONS TO) *continued*

made in usual and ordinary course of business, A-55
no information, A-60.3
proof by affidavit or certificate, A-60.3
subsec. 30(11)/supplementary, A-60.8.2
summaries, A-60.3
s. 31 definitions, A-60.8.3
s. 31.1 authentication of electronic documents, A-60.8.4
s. 31.2 application of best evidence rule, A-60.8.6.2
s. 31.3 presumption of integrity, A-60.8.6.3
s. 31.4 presumption regarding secure electronic signatures, A-60.8.8
s. 31.5 standards considered, A-60.8.7
s. 31.6 proof by affidavit, A-60.8.8.1
s. 31.7 application, A-60.8.8.1
s. 31.8 definitions, A-60.8.8.2
s. 32 order signed by Secretary of State, A-60.8.8.3
s. 33 proof of handwriting, A-60.8.8.3
s. 34 attesting witness, A-60.8.8.3
s. 35 impounding of forged instrument, A-60.8.8.3
s. 36 construction, A-60.8.9
s. 36.1 definition of official, A-60.8.9
s. 37 objection to disclosure of information, A-60.8.9
s. 37.1 appeal to court of appeal, A-60.10
s. 37.2 limitation periods, A-60.10
s. 37.3 protection of rights, A-60.11
s. 38 definitions, A-61
s. 38.01 notice to Attorney General of Canada, A-61
s. 38.02 disclosure prohibited, A-64
s. 38.03 authorization by Attorney General, A-64.1
s. 38.031 disclosure agreement, A-64.2
s. 38.04 application to Federal Court, A-64.2
s. 38.05 report relating to proceedings, A-64.5
s. 38.06 disclosure order, A-64.5
s. 38.07 notice of order, A-64.8
s. 38.08 automatic review, A-64.8
s. 38.09 appeal to Federal Court of Appeal, A-64.8
s. 38.1 limitation periods for appeals, A-64.8
s. 38.11 special rules/*ex parte* representations, A-64.9

s. 38.12 protective order, A-64.9
s. 38.13 certificate of Attorney General, A-64.10
s. 38.131 application for review of certificate, A-64.11
s. 38.14 protection of right to a fair trial, A-64.13
s. 38.15 effect of fiat, A-64.13
s. 38.16 regulations, A-64.14
s. 38.17 annual report, A-64.14
s. 39 objection relating to a confidence of the Queen's Privy Council, A-64.15
s. 39.1 journalistic sources, definitions, A-69
s. 40 provincial laws of evidence, A-70.1
s. 41 statutory declarations, A-72
solemn declarations, A-72
s. 42 insurance proofs, A-73
affidavits, etc, A-73
s. 43 application, A-73
foreign courts, A-73
s. 44 interpretation, A-73
definitions, A-73
s. 45 construction, A-73
s. 46 order for examination of witness in Canada, A-74
examination of non-party/foreign proceeding, A-74.1
letters rogatory, A-74.01
s. 47 enforcement of the order, A-74.2
s. 48 expenses and conduct money, A-74.3
s. 49 administering oath, A-75
s. 50 right of refusal to appear or produce document, A-75
nature of right, A-75
s. 51 rules of court, A-75
letters of rogatory, A-75
s. 52 application, A-76
s. 53 oaths taken abroad, A-77
s. 54 documents to be admitted into evidence, A-78

CANADA PENSION PLAN APPEALS

access to court documents, 7-26.4
appeal to FCA, 7-13
appeal to TCC, 7-11
application to set aside, 7-26.4
commencement of appeal, 7-16
consent judgment, 7-23
consolidation of appeals, 7-21
consolidation of interventions, 7-21
contempt of court, 7-26.5 *et seq.*
costs in vexatious proceedings, 7-26.6

INDEX

- CANADA PENSION PLAN APPEALS continued*
- definitions, 7-15
 - determination of questions, 7-13
 - discovery, 7-25
 - disposition of appeals, 7-23
 - electronic filing, 7-18
 - employer/employee relationship, 7-13
 - evidence, 7-26.1
 - extension of time, 7-11, 7-18
 - filing date, 7-18
 - filing of other documents, 7-18
 - forms, 7-27 *et seq.*
 - hearing, 7-26
 - interventions, 7-21, 7-29
 - non-compliance with rules, 7-26.4
 - notice of appeal, 7-16, 7-27
 - overview, 7-1
 - overview of procedure (chart), 7-4, 7-4.8
 - preparation for appeal, 7-19
 - reply, 7-22
 - self-employed earnings, 7-14
 - service of documents, 7-26.3
 - subpoena, 7-26.1
 - TCC rules, 7-15 *et seq.*
 - time, calculation, 7-26.4
 - where no rules, 7-26.5
- CANADA REVENUE AGENCY**
- interpretation bulletins, 18-84
 - offices and Justice offices, 2-1
 - records as evidence, 17-14.2
 - Remission Manual, employee, 21-10
 - remission of tax, 21-10
 - settlement protocol, 20-3
 - settlements, 20-2
- CANADIAN CHARTER OF RIGHTS AND FREEDOMS*
see CHARTER OF RIGHTS AND FREEDOMS
- CANADIAN HUMAN RIGHTS ACT*, 4-219
- CANONS OF CONSTRUCTION**
see INTERPRETATION OF TAX STATUTES
- CAPACITY**, 4-255
- CARRYFORWARDS**, 16-4.7
- CASE MANAGEMENT**
- availability, 4-565
 - failure to appear, 4-565
 - judge, 4-565
 - memorandum/direction, 4-572.1
 - no disclosure to court, 4-573
 - teleconference/videoconference, by, 4-33
- CERTIFICATE OF DEBT**, 4-228
- CERTIFICATE OF LIABILITY**, 4-220
- CHARITIES**
- appeals from Ministerial decisions, 15-19 *et seq.*
 - cases
 - appeals by organizations, 16-101
 - deemed refusal to register, 16-102
 - notice of intention to revoke registration, 16-101
- CHARTER (ANNOTATIONS TO)*
- preamble, 19-4.01
 - s. 1 rights and freedoms in Canada guarantee of rights and freedoms, 19-4.01
 - s. 2 fundamental freedoms
 - freedom of association, 19-16
 - freedom of conscience and religion, 19-9
 - freedom of thought/belief/opinion, *etc.*, 19-12
 - s. 3 democratic rights of citizens, 19-17
 - s. 4 maximum duration of legislative bodies, 19-17
 - s. 5 annual sitting of legislative bodies, 19-17
 - s. 6 mobility rights, 19-17
 - s. 7 life, liberty and security of person, 19-19
 - audit or investigation, 19-20.03
 - abuse of process, 19-20.3
 - corporations, 19-20.4
 - economic interests, 19-21
 - penalties, 19-24
 - principles of fundamental justice, 19-20.01
 - procedural fairness, 19-24
 - right to counsel, 19-24.1
 - self-incrimination, 19-24.2
 - vagueness, 19-24.4.1
 - s. 8 search or seizure, 19-24.6
 - s. 9 detention or imprisonment, 19-28
 - right not to be arbitrarily detained, 19-28
 - s. 10 arrest or detention, 19-28
 - s. 11 proceedings in criminal and penal matters, 19-29
 - double jeopardy, 19-32.2

INDEX

- CHARTER (ANNOTATIONS TO) continued*
- proceedings in criminal/penal matters, 19-30
 - right not to be tried again, 19-32.3
 - right not to be witness, 19-32.1
 - right to be informed of offence, 19-31
 - right to be presumed innocent, 19-32.1
 - right to be tried within a reasonable time, 19-31
 - right to benefit of lesser punishment, 19-32.4
 - right to benefit of trial by jury, 19-32.3
 - right to fair and public hearing, 19-32.1
 - right to trial within reasonable time, 19-30
 - s. 12 treatment or punishment, 19-32.5
 - right not to be subjected to cruel and unusual treatment or punishment, 19-32.5
 - s. 13 self-crimination, 19-33
 - right against self-crimination, 19-33
 - s. 14 interpreter, 19-36
 - s. 15 equality rights, 19-36
 - administration of the Act, 19-38.2
 - affirmative action programs, 19-46.7
 - age, 19-38.2
 - calculation of tax, 19-39
 - Canada Pension Plan*, 19-39
 - charitable tax credits, 19-39
 - citizenship, 19-40
 - collections stay, 19-40
 - conduct of officials, 19-40
 - conscience, 19-40
 - corporations, 19-40.1
 - creditors, 19-41
 - directors and shareholders, 19-41
 - disabilities/medical tax credit, 19-42
 - employment/employment insurance, 19-44
 - equal protection and benefit of law, 19-36.1
 - expenses, 19-44.2
 - farmers, 19-44.3
 - GAAR, 19-44.3
 - GST tax credits, 19-44.4
 - immigration status, 19-44.4
 - income, 19-45
 - Indian Act*, 19-46
 - occupational status, 19-46
 - old age security, 19-46.1
 - other taxpayers, 19-46.1
 - pensions/RRSPs, 19-46.1
 - political tax credit, 19-46.2
 - poverty, 19-46.2.01
 - prisoners, 19-46.2.01
 - proof, 19-46.2.1
 - representation in court, 19-46.2.1
 - residence, 19-46.2.1
 - spouses, parents, families, children, adoption, 19-46.2.2
 - standing, 19-46.6
 - time limits, 19-46.6
 - s. 16 official languages, 19-46.7
 - s. 16.1 English and French linguistic communities, 19-46.7
 - s. 17 proceedings of Parliament, 19-47
 - s. 18 parliamentary statutes and records, 19-47
 - s. 19 proceedings in courts established by Parliament, 19-47
 - s. 20 communications, 19-48
 - s. 21 continuation of existing constitutional provisions, 19-48
 - s. 22 rights and privileges preserved, 19-48
 - s. 23 language of instruction, 19-48
 - s. 24 enforcement of rights, 19-49
 - administration of justice into disrepute, 19-49
 - application to court for remedy, 19-50
 - exclusion of evidence, 19-55
 - s. 25 Aboriginal rights and freedoms, 19-58.3
 - s. 26 other rights and freedoms, 19-58.3
 - s. 27 multicultural heritage, 19-58.3
 - s. 28 rights guaranteed equally to both sexes, 19-58.4
 - s. 29 rights respecting certain schools preserved, 19-58.4
 - s. 30 application to Territories, 19-59
 - s. 31 legislative powers not extended, 19-59
 - s. 32 application of *Charter*, 19-59
 - s. 33 exception where express declaration, 19-61
 - s. 34 citation, 19-61
 - s. 35 rights of aboriginal peoples of Canada, 19-61
 - s. 52 constitution is supreme law of Canada, 19-63
- CHARTER OF RIGHTS AND FREEDOMS*
- annotations to, *see CHARTER (ANNOTATIONS TO)*
- cases, 17-14.3
 - contents, 19-1
 - court of competent jurisdiction for, 3-38
 - freedom of association, 19-13
 - principles upon which it is founded, 19-4.01
 - text reproduced, 19-4.01 *et seq.*

INDEX

- CHIEF JUSTICE**
absence/incapacity, 3-20
defined, 3-7
rank/precedence, 3-20
transfer/transmission of interest, 4-77
- CIVILIAN WAR-RELATED BENEFITS ACT
APPEALS**, 11-21
- CLEAR DAYS**, B-20
- COLLATERAL MATTERS**, 3-38.4
- COLLECTIONS**, 4-221
- COMMENCEMENT OF APPEAL**
see INSTITUTION OF PROCEEDINGS
- COMMERCIAL PRACTICES**, 17-15
- COMMISSION EVIDENCE**, 4-546, 4-556
- COMPENSATION**
inspection of property, 4-329
- CONDUCT MONEY**
see WITNESS FEES AND EXPENSES
- CONFERENCE CALLS, HEARINGS BY**, *see also*
TELECONFERENCE/VIDEOCONFERENCE,
4-35, D-5
- CONFIDENTIALITY**
see also PRIVILEGE
documents, 4-351
journalist confidential source privilege, 4-370
order, 4-52
s. 241 *ITA/s. 295 ETA*, 4-357
- CONSENT**
amendments to pleadings, 4-264
examinations out of court (videotaping), 4-541
examine outside Canada (before trial), 4-556
extension of time, 4-111
hearings by teleconference/videoconference,
4-33
Informal Procedure
adjournment, 3-99
hearing date, delay, 3-97
reply by MNR, time extension, 3-95
ITA appeals, oral discovery, 3-69
late filing of reply, 4-111
pleadings subsequent to answer, 4-109
remediating default after motion, 4-44
return of exhibits, 4-588
service *ex juris*, 4-108
special case, application for, 4-281
taking evidence before hearing, 4-554
use of documents at hearing, 4-442
withdrawal of admission, 4-579
- CONSENT JUDGMENTS**
authority of counsel, 4-852
costs, 4-852
CPP appeals, 7-23
EIA appeals, 8-54
forms
 TCC (General Procedure), 20-4.2
 TCC (Informal Procedure), 20-4.1
generally, 4-849
limits on Minister, 4-852
overview, 20-1
precedential value, 4-854
- CONSOLIDATED REVENUE FUND**
costs against Crown, 3-63
fees payable to Registry, 3-73
- CONSOLIDATION**
CPP appeals, 7-21
EIA appeals, 8-52
General Procedure, 4-66
- CONSTITUTIONAL QUESTIONS**, 3-140.01
court of competent jurisdiction—constitutional
 grounds, 3-38.1
GST not unconstitutional, 3-143, 6-1
income tax not unconstitutional, 3-141
notice of, 3-140.01, 4-289
- CONTEMPT OF COURT**
cases, 3-53, 4-871
disclosure, *in camera* hearings, 4-585
rule 172.4, 4-869
- CONTRACT OF SERVICE OR CONTRACT FOR
SERVICES**, 8-19
civil law, 8-19
common law, 8-22

INDEX

- CONTRACTOR**
dependent contractor, 8-28.1
employee vs. independent contractor, 8-44
 burden of proof, director's liability, 4-65
 evidence in tax appeals, 17-30, 17-80.6
- CORPORATE VEIL**, 17-18
- CORPORATION**
affidavit of documents, 4-894
articles of incorporation, 17-12.2
cases, 16-43
dissolved, 4-260
evidence in tax appeals (cases), intention, 17-80.5
examination for discovery, 4-457
interest (instalments), 16-56
Interpretation Act (annotations), B-14.1
representation by counsel, 4-91
- CORPORATIONS INFORMATION ACT FILINGS**,
17-18.07
- CORROBORATION**, 17-18.07, 17-26.1
- COSTS**
ability to pay, 4-794
advance/interim, 4-723
against Crown
 paid out of which fund, 3-63
 to or against, 4-735
allocation of/persons required to pay, 4-722
amendment of pleading, 4-785
amounts in issue, 4-737
any proceeding, 4-724
application for directions, 4-782
cases, 4-722 *et seq.*
conduct of party, 4-751
directions to taxing officer, 4-780
disbursements, 4-802 *et seq.*, *see also*
 TAXATION OF COSTS
discontinuance, on, 4-784
discretion to award or refuse, 4-771
examination of non-party, 4-509
examination out of court
 improper conduct, 4-539
 interpreter's fees, 4-530
 outside Canada, transcript, 4-530
 reporter's fees, 4-530
expert fees justified, 4-760
extension of time, 4-785
factors considered, 4-735
failure to elect I.P., 4-785
fixed award, 4-767
follow the event if sought, 4-725
general principles, 4-718.1 *et seq.*
GST appeals, 3-126, 3-128, 6-37 *et seq.*
improper/negligent step, 4-759
Informal Procedure, 3-106, 3-109, 5-10 *et seq.*
inherent jurisdiction to award, 4-727
interim/advance, 4-723
interlocutory motions, 4-796
issues, amounts/importance of, 4-737, 4-740
liability of counsel, 4-787
lump sum award, 4-767
motions, on, 4-307, 4-734
Ontario's rule application, 4-766
percentage of taxed costs, 4-772
principled approach to, 4-728, 4-732
prior to notice of appeal, 4-728
proving a document, 4-785
proving a fact, 4-785
refusal to admit, 4-758
result of proceeding, 4-735
security for, *see* **SECURITY FOR COSTS**
set off of costs, 4-785
settlement offers, and, 4-742.1, 4-763, 4-766
 timing requirement rule, 4-763
settlement, on, 4-763, 4-784
solicitor-client, 4-773
special provisions, 4-785
substantial indemnity, 4-767
tariff and discretion to move beyond, 4-730,
 4-874
tariff of fees, 4-918 *et seq.*
taxation of, *see* **TAXATION OF COSTS**
thrown away, 4-772
vexatious proceedings, in, 4-791, 6-40.1
volume of work, 4-750
- COUNSEL**
see also **REPRESENTATION BY COUNSEL**
accounting records (privilege), 4-400.1
"act in person", self-represented, 4-79
affidavit of, 4-310
affidavit of documents, and, 4-336.1
communicating with witnesses, 4-691
conflict, 4-91
counsel fees (taxation of costs), 4-822
defined, 4-27

INDEX

- COUNSEL** *continued*
examination for discovery, effect of
 answering, 4-505
gowning, D-3
lien, 4-96
officer of court, as, 3-65
of record, 4-91
removal of, 4-91, 4-97, 4-98
representation by, 4-81
responsibilities of at hearing, 4-661
self-represented, 4-79
status hearing, 4-561
- COUNSEL OF RECORD**
change of representation, 4-97
defined, 4-28
removal of, 4-91 *et seq.*
- COURT**
books and records, 4-873
fees and expenses, 4-874
office hours, 4-48.1
place of sittings, D-6
practice notes, *see* PRACTICE NOTES
seal, 4-874
- COURT DOCUMENTS**
access to, 4-49
filing of, by mail/fax, 4-56
format, 4-48.1
notice to be in writing, 4-56
photocopies, 4-49
- COVID-19 JUDICIAL SITTINGS/PROCEDURES,**
 D-39, D-52, D-59, D-60, D-62, D-71, D-72
- CPP APPEALS**
see CANADA PENSION PLAN APPEALS
- CREDIBILITY, CORROBORATION AND
 RELIABILITY, 17-18.07, 17-26.1**
- CROSS-EXAMINATION**
adverse party called as witness, 4-714
affidavit of documents, incomplete, 4-437
Browne v. Dunne, 17-27
cases, 17-26.6
CEA provisions, A-29, A-36
documents made by others not in evidence, 17-
 28.02
- expert witness, 4-700
failure to, 17-28.03
motions, affidavit, 4-320
no questions on veracity of other witnesses,
 17-28.03
oral statements, A-29 *et seq.*
previous statements, A-29 *et seq.*
rebuttal evidence, 17-28.04
unproven facts, 17-28.04
witnesses, 4-688
- CROWN**
affidavit of documents, 4-894
costs awarded against, 3-63, 4-718.1
costs awarded to, 4-718.1
examination for discovery, 4-458
notice of appeal, service on, 4-64
reciprocal tax agreements and immunity, 3-52
representation of, 4-88
- CULTURAL PROPERTY EXPORT AND IMPORT
 ACT APPEALS**
appeals to TCC, 11.1-8
contents of application, 11.1-10.3
determination relating to income tax matters,
 11.1-5
extension of time for appeal, 11.1-10.2
fair market value, 11.1-8
how application made, 11.1-10.3
income tax certificate, 11.1-7
overview, 11.1-1
remuneration, 11.1-4
Review Board, 11.1-3
transitional provisions, 11.1-11
- CUSTOMS ACT PART V.1 APPEALS**
appeal to TCC, 9-6, 9-9 *et seq.*
application, 9-12
assessments, 9-4.6
costs, 9-16
discontinuance, 9-15
electronic filing, 9-14
expert witnesses, 9-15
extensions of time, 9-7
filing a notice of appeal, 9-12
filing date, 9-14
filing of other documents, 9-12
judgments on admissions, 9-23
objections, 9-4.7
procedural guide, 9-3

INDEX

- CUSTOMS ACT PART V.1 APPEALS continued*
references, 9-10
subpoena, 9-23
TCC Rules respecting, 9-11 *et seq.*
forms, 9-27 *et seq.*
- DAMAGES, 4-223
- DE NOVO* APPEALS
see FEDERAL COURT TRIAL DIVISION
- DEATH
appellant, effect, 4-77, 4-258
evidence before hearings, considerations, 4-554
partner/proprietor, of, 16-4
- DEBATES, 17-28.04.2, 18-68.6
- DECLARATORY RELIEF, 4-224
- DEEMING PROVISIONS, 18-24
- DEFAULT
see NON-COMPLIANCE WITH RULES
- DEFAULT JUDGMENT
application for, 4-293
cases, 4-293 *et seq.*
failure to appear, 4-671
- DEFINITION SECTIONS, 18-27
- DEFINITIONS
CPP appeals, 7-15
EIA appeals, 8-46.1
General Procedure rules, 4-9 *et seq.*
GST appeals (I.P.), 6-32.4
Informal Procedure rules, 5-4.6
TCCA, 3-17
- DELAY, JUDGMENT FOR, 4-296
- DEMAND FOR PARTICULARS, 4-173
- DEPONENTS
illiterate/blind, 4-57
in need of interpreter, 4-57
personal knowledge, 4-57
- DEPUTY JUDGES, 3-21
- DETERMINATION OF QUESTION, 3-133
- DICTIONARY DEFINITIONS, 18-76
- DIRECTIONS
see also MOTION FOR DIRECTIONS
costs, 4-780
examinations out of court (improper conduct),
4-539
forms
attendance of witness in custody, 4-912
inspection, 4-329
judgment debtor examination, 4-868
liability of counsel for costs, 4-787
taxing officer, to, 4-718.1, 4-780
time computations, 4-45
time extension/abridgement, 4-46
- DIRECTORS
capacity to appeal, 4-259
due diligence defence, 16-60, 17-28.2.1
evidence, 17-28.06
underlying assessment, 4-259
- DISABILITY, PARTY UNDER
affidavit, 4-57
examination for discovery, 4-453, 4-513
representation by counsel, 4-78
- DISBURSEMENTS, 4-802 *et seq.*
see also TAXATION OF COSTS
- DISCONTINUANCE
costs, 4-784
GST appeals, 6-36
Informal Procedure, 5-10
ITA s. 169(3), 3-62
TCCA, 3-62
- DISCOVERY
see also DISCOVERY OF DOCUMENTS;
EXAMINATION FOR DISCOVERY
CPP appeals, 7-25
EIA appeals, 8-55
TCCA provision, 3-69
- DISCOVERY OF DOCUMENTS
affidavit incomplete, 4-437
affidavit of documents, *see* LIST OF
DOCUMENTS

INDEX

DISCOVERY OF DOCUMENTS *continued*

application to the court, 4-339

cases

- confidentiality, 4-357, 4-383
- disclosure contrary to domestic law, 4-364
- disclosure contrary to foreign law, 4-365
- electronic documents, 4-348
- inadvertent disclosure of documents, 4-415
- informant's privilege, 4-366
- investigation privilege, 4-369
- litigation privilege, 4-370
- possession, control, or power, 4-350
- privilege claimed, 4-351
- privilege for accounting records of lawyer, 4-400.1
- relevance, 4-342
- solicitor's obligation, 4-350
- solicitor-client privilege, 4-387 *et seq.*
- waiver of privilege, 4-409
- without prejudice correspondence, 4-379

corporate documents, 4-420

description of documents, 4-421

disclosure/production not admission, 4-446

document in possession of non-party, 4-431

improperly claimed privilege, 4-437

inspection, 4-430

interpretation, 4-330

list of documents, *see* LIST OF DOCUMENTS

non-compliance, effect of, 4-446

notice to inspect, 4-332, 4-890

notice to produce, 4-332

privileged documents, describing, 4-423

use of documents at hearing, 4-442

DISCRETIONARY DECISIONS, 4-225

DISMISS APPEAL

condition precedent not met, 4-251

failure to appear, 4-671

lack of jurisdiction, 4-202

lack of legal capacity, 4-255

DISMISSAL FOR DELAY, 4-296

DISSOLVED CORPORATION, 4-260

DOCUMENTS

see also COURT DOCUMENTS

corporate, 4-420

discovery, *see* DISCOVERY OF DOCUMENTS

joint book of, 4-686

list, *see* LIST OF

DOCUMENTS

notice to produce, 4-332, A-46

privilege, *see* PRIVILEGE

relevance, 4-342 *et seq.*

DOUBLE TAXATION, 18-32

DUE DILIGENCE

see DIRECTORS, due diligence defence; RETURNS, ASSESSMENTS, PAYMENTS AND APPEALS, s. 162 due diligence defence; PENALTIES

EIA APPEALS

see EMPLOYMENT INSURANCE ACT APPEALS

EJUSDEM GENERIS, 18-60.4

ELECTIONS

GST appeals (have I.P. apply), 6-40.1, 6-47

Informal Procedure

have I.P. apply, 5-12, 5-19

limit amounts in issue, 5-13, 5-20, 5-21

jurisdiction, lack of, 4-225

ELECTRONIC DOCUMENTS, 4-348, 17-30

EMPLOYEE VS. INDEPENDENT

CONTRACTOR; *see* INDEPENDENT CONTRACTOR VS. EMPLOYEE

EMPLOYMENT INSURANCE ACT APPEALS

administration, 8-28.3

appeal to TCC, 8-9 *et seq.*, 8-28.3

authority to decide questions, 8-28.3

contract of service or contract for services, 8-19

decision final, 8-28.4

extension of time, 8-11

jurisdiction, 8-10

nature of insurable employment appeal, 8-12

arm's length dealing under 5(3)(b),

8-15

contract of service under 5(1)(a), 8-12

INDEX

EMPLOYMENT INSURANCE ACT APPEALS

continued

control more than 40% voting shares under 5(2)(b), 8-14

no costs unless abuse of process, 8-28.4

reasons for decision, 8-28.2

application to set aside, 8-46.1

burden of proof, 4-650, 8-18

consent judgments, 8-39

consolidation of appeals, 8-37

consolidation of interventions, 8-37

contempt of court, 8-46

costs in vexatious proceedings, 8-48

definitions, 8-29

dependent contractor, 8-28.1

discovery, 8-41

disposition of appeals, 8-39

electronic filing, 8-32

evidence, 8-45

extension of time, 8-11, 8-33

filing a notice of appeal, 8-30

filing date, 8-32

filing of other documents, 8-31

forms, 8-49 *et seq.*

general, 8-46.1

hearing, 8-43

informal procedure applies in Part, 8-8

insurable employment category, regulations

expanding, 8-28.2

intervention, 8-35, 8-37, 8-51

non-compliance with rules, 8-46.1

notice of appeal, 8-30, 8-49

overview, 8-1

overview of procedure (chart), 8-3 *et seq.*

placement agencies, 8-28.2

preparation for appeal, 8-34

reply, 8-37

service of documents, 8-46

subpoena, 8-44

TCC rules, 8-29 *et seq.*

time, calculation of, 8-46.1

where no rules, 8-46.1

ENFORCEMENT OF JUDGMENTS, 4-867

ENTRY

property, inspection, time, 4-329

EQUITY, 4-226

ESTATES, 4-262

ESTIMATE OF TAX, 16-4

ESTOPPEL

abuse of process, 17-37

advance rulings, 17-35

court decisions, orders and records, 17-24

criminal charges, convictions or acquittals, 17-37, 17-43

generally, 17-30

interlocutory decisions, 17-44.1

interpretation bulletins/guides/forms, 17-35

issue, 17-37

previous assessments, 17-36.02

relitigation, 17-37

representation against Crown, by, 17-30.2

representation against taxpayer, by, 17-36.1

res judicata, 17-37

settlements, 17-44.2

EVIDENCE

cases, *see* EVIDENCE IN TAX APPEALS (CASES)

CEA, *see* CANADA EVIDENCE ACT (ANNOTATIONS TO)

Charter breach, 4-620

CPP appeals, 7-26.1

EIA appeals, 8-58

hearing, at, 4-684 *et seq.*

Informal Procedure, 3-59

motions, 4-309 *et seq.*

rebuttal, 4-655, 17-104.1, A-32

reply, 4-655

taking, before hearing, 4-554 *et seq.*

EVIDENCE IN TAX APPEALS

(CASES) *see also under* PLEADINGS

accounting, 17-12.10, 17-62

acting in concert, 17-12

adducing or putting facts before Court, 4-654

administrative policy, 17-6.1

admissibility, 17-6.1

admissions, 17-6.4

admitted or agreed facts, 17-6.7

adventure in nature of trade, 17-6.9

adverse inference, 17-6.9

affidavit evidence, 17-6.9

agency, 17-6.10

agency, Crown, 17-8.1

INDEX

EVIDENCE IN TAX APPEALS

(CASES) *continued*

agreed statement of facts, 17-8.2

agreements, 17-8.2

agreements, oral, 17-10

arm's length, 17-12

articles of incorporation, 17-12.2

audi alteram partem, 17-12.3

audit methodology, 17-12.3

authentication of documents, 17-12.3

backdating documents, 17-12.4

bad debts, 17-12.4

bank records, 17-12.4.1

beneficial owner, 17-12.5

benefits, 17-12.6

best evidence rule, 17-12.7

bona fide, 17-12.9

bookkeeping entries, 17-12.10

burden of proof, 17-14

business judgment, 17-14

business records, 17-14.1

Canada Revenue Agency (CRA) records, 17-14.2

cash, 17-14.5

character evidence, 17-14.5

charitable donations, 17-14.5

circumstantial evidence, 17-14.5

commercial practices/commercial realities, 17-15

computer records of CRA, 17-16

contracts, 17-16

control of corporation, 17-18.05

corporate objects, 17-16

corporate records, 17-17

corporate responsibility attribution rules, 17-18

corporate veil, 17-18

Corporations Information Act filings, 17-18.07

corroboration, 17-18.07, 17-26.1

course of conduct, 17-18.08

court considers what actually done, 17-19

court decisions, orders and records, 17-24

credibility, corroboration, and reliability, 17-26.1

criminal charges, convictions or acquittals,
17-37, 17-43

cross-examination and re-examination, 17-26.6,
17-27

Browne v. Dunne, 17-27

effect of failure to, 17-28.03

rebuttal evidence, 17-28.04

debates in legislature, 17-28.04.2

departmental practices, 17-28.04.2

directors, 17-28.04.2

challenge corporation's assessment, 17-28.2.1

due diligence defence, 17-28.2.1

disability tax credit certificate, 17-28.2.9

dividends, 17-28.2.9

documents

generally, 17-28.2.10

in possession, 17-28.2.10

joint book of, 4-686

or credible oral evidence, 17-28.2.10

prepared *ex post facto*, 17-28.2.10

domestic law, 17-29

donations, 17-76.7

due diligence, 17-29

economic realities, 17-30

elections, 17-30

electronic documents, 17-30

employee or independent contractor, 17-30

estoppel, *see* ESTOPPEL

Excise Tax Act

s. 334(1) sending by mail, 17-102

expenses

business versus personal, 17-48

general, 17-45

invoices, records, receipts, and vouchers, 17-49

expert evidence

admissibility of four categories of witnesses,
17-52

admissibility/burden, 17-51

admissibility/ultimate issue, 17-54.05

admissibility/weight of expert evidence, 17-52

bias, 17-54.07

contents of report, 17-55

cross-examination, 17-56

disqualification, 17-57

fees justified, 4-760

function of expert witness, 17-58.1

immunity from civil suit, 17-58.2

non-expert opinion evidence, 17-58.2

production of documents when testifying,
17-58.4

qualifications, 17-60

service of affidavit, 17-61

subjects of expert evidence

accounting, 17-62

appraisal, 17-66.2

domestic law, 17-69

economics/profitability, 17-71

foreign accrual property income (FAPI),

17-71

foreign law, 17-72

INDEX

EVIDENCE IN TAX APPEALS

(CASES) *continued*

- general, 17-74.1
- handwriting, 17-74.1
- hedging, 17-71
- highest and best use, 17-74.2
- industry practice, 17-74.2
- intention, 17-74.2
- international law, 17-74.2.1
- legislative and social facts, 17-74.2.1
- meaning of words, 17-74.2.2
- rate of return, 17-71
- religion, 17-74.2.3
- reasonable expectation of profit (REOP), 17-71
- scientific research, 17-74.2.3
- surveys, 17-74.2.4
- tax treaties, 17-74.2.4
- transfer pricing, 17-74.2.4
- valuation, 17-68
 - use of hindsight, 17-68
- export, 17-74.2.4
- Facebook, 17-74.2.5
- failure of subpoenaed witness to testify, 17-74.6
- failure to call witness or lead evidence, 17-74.2.5
- fair market value, 17-74.6
- financial statements, 17-76
- foreign judgments, 17-76.1
- foreign law, 17-76.1
- fraud, 17-76.1
- GAAR policy, 17-76.7
- gifts, 17-76.7
- handwriting, 17-76.12
- hearsay, 17-76.12
- identity theft, 17-80.1
- Income Tax Act*
 - s. 244, 17-102.01
 - s. 244(5), 17-102.01
 - s. 244(6.1), 17-102.03
 - s. 244(7), 17-102.03
 - s. 244(9), 17-102.04
 - s. 244(10), 17-102.2
 - s. 244(12), 17-102.4.1
 - s. 244(13), 17-102.5
 - s. 244(14), 17-102.6
 - s. 244(14.1), 17-102.7
 - s. 244(15), 17-102.7
 - s. 244(20), 17-102.8
- incomplete transactions, 17-80.1
- intention, 17-80.2
- adventure in nature of trade, 17-80.2
- capital gains deduction, 17-80.4
- carry on business for profit, 17-80.4
- corporation or group, 17-80.5
- employee vs. independent contractor, 17-80.6
- form and legal requirements vs. intention, 17-80.6
- motive and main reasons, 17-80.8
- new housing rebate, 17-80.7
- personal service business, 17-80.8
- primary and secondary, 17-80.10
- proof of, 17-83
- relevant time, 17-84.2
- small business deductions, 17-84.2
- tax savings, 17-84.2
- taxpayer's statements of, 17-84.3
- Internet, 17-84.3
- interpretation bulletins, *etc.*, 17-28.04.2
- invoices, 17-84.4
- joint ownership, 17-84.4
- joint venture, 17-84.5
- judicial admissions, 17-84.5
- judicial findings, 17-84.5
- judicial notice, 17-84.5
- legislation, 17-86.04
- legislative facts/ social facts, 17-85
- legitimate expectations, 17-86.04
- loans, 17-86.04
- mandate, 17-86.05
- Minister subpoenaing appellant, 17-86.05
- minutes or resolutions, 17-86.05
- mistake of fact, 17-86.05
- mistake of law, 17-86.05
- motive, 17-86.06
- no evidence without leave, 4-201
- non est factum*, 17-86.06
- notice, 17-86.06
- notice of assessment, proof of electronic delivery, 17-86.07, 17-102.03
- notice of reassessment, electronic notice date, 17-102.7
- oath helping, 17-86.07
- opinion evidence from non-experts, 17-86.07
- oral history, 17-86.1
- other taxpayers' activities, records and treatment, 17-86.1
- ownership, 17-88.1
- parliamentary privilege, 17-88.3
- parol or extrinsic evidence, 17-88.3
- partnership, 17-92

INDEX

EVIDENCE IN TAX APPEALS

(CASES) *continued*

past recollection recorded, 17-94.5
photographs, 17-94.5
pleadings, 17-95
presumptions of evidence, 17-95
prima facie evidence, 17-99
primarily, 17-99
prior consistent statements, 17-99
prior convictions, 17-100
prior inconsistent statements, 17-100
prior tax filings, 17-100
privilege, 17-101
 statements made in court proceedings,
 17-102
procedure and evidence, 17-102 *et seq.*
profit, 17-102.9
provincial law, 17-102.9, 17-103
purpose, 17-103
reasonableness, 17-104
rebuttal evidence, 17-104.4
recent fabrication, 17-104.4
recharacterization, 17-104.4
reciprocity of tax treatment, 17-104.4
reconstructed notices of assessment, 17-104.5
rectification orders, 17-105
refreshing memory of witness, 17-106.2
relevance, 17-106.2
rescission, 17-106.3
res judicata, 17-106.3, 17-106.6
residence, 17-106.4
retroactive tax planning, 17-106.6
returns, 17-106.6
sale, 17-106.7
scientific research, 17-106.7
secondary intention, 17-106.11
sending (and receipt) of notice of assessment,
 17-106.11
series of transactions/events, 17-106.11
set-offs, 17-106.13
settlements, 17-106.13
sham, 17-107
shares, 17-108.6
similar fact evidence, 17-108.6
source deductions, 17-108.8
spoliation, 17-109
standard of proof, 17-110
stare decisis, 17-110
Statistics Canada, 17-110
Statute of Frauds, 17-110.1

statutory provisions, 17-102 *et seq.*
substance versus form, 17-110.1
substantially/substantially all, 17-111
summaries, 17-111
support payments, 17-112.1
T401 reports, 17-14.2
tax accrual working papers, 17-112.1
tax planning/tax oriented transactions/tax saving
 intention, 17-112.2
transfers, 17-112.4.2
trusts, 17-112.4.2
video, 17-114
wilful blindness, 17-114
window dressing, 17-117
witnesses, 17-119
working papers, 17-121

EX PARTE MOTIONS, 4-302

EXAMINATION BEFORE HEARING,
 4-554 *et seq.*

EXAMINATION FOR DISCOVERY

admission, withdrawal of, 4-518
amounts less than \$50,000, 3-69
assignor/assignee, 4-453
bankrupt, 4-453
before delivering reply, 4-462
before seeking particulars, 4-462
corporation, 4-457
counsel answering, effect of, 4-505
cross-examination, 4-496
Crown, 4-457, 4-529
disability, party under legal, 4-453, 4-461, 4-513
duty to be informed, 4-501
experts, 4-502.2
follow-up questions, 4-496.1
form of, 4-453
further examination with leave, 4-454, 4-360
GAAR appeal scope, 4-469
general principles, 4-469
guiding principles, 4-464
impeachment, 4-519
implied undertaking rule, 4-450, 4-522
information subsequently obtained, 4-506
knowledgeable officer, director, servant, em-
 ployer, 4-501
multiple examinations, 4-453
non-parties, 4-509
objections to questions, 4-462, 4-489

INDEX

- EXAMINATION FOR DISCOVERY *continued*
order of examining, 4-461
persons with knowledge, 4-503
privilege (statements on discovery), 4-450
proper questions, 4-489
proportionality in, 4-497
purposes, 4-450
questions about documents, 4-474
questions about documents in a GAAR appeal, 4-482
questions about editing/redacting documents, 4-484
questions about legal positions/conclusions, 4-485
questions about mental process of Minister, 4-487
questions about witnesses and evidence, 4-487
questions calling for opinions, 4-487
questions, follow-up to oral examination can be in writing, 4-450
questions raising claims of privilege, 4-484
questions taken under advisement, 4-497
refusal to answer, effect of, 4-504
relevant to any matter, 4-470
relevant to pleadings, 4-470
scope of examination, 4-462 *et seq.*
third party information, 4-494
undertakings, 4-499
use of, at hearing, 4-515, D-12
 person unable to attend, 4-521
when held, 4-461
who may be examined, 4-453
who may be present, 4-451
written interrogatories, 4-549 *et seq.*, 4-903, 4-904
- EXAMINATIONS OUT OF COURT
application of rules, 4-530
documents, 4-533
improper conduct of examination, 4-539
interpreter, 4-530
mode of examination, 4-530
notice of time and place, 4-533
notice to attend, 4-532, 4-896
oath/affidavit, 4-530
objections and rulings, 4-536
official languages, 4-530
outside Canada, 4-546, 4-898 *et seq.*
re-examination, 4-535
reporter, 4-530
sanctions for default or misconduct, 4-541
subpoena, 4-532, 4-897
transcript, 4-530, 4-541, 4-545
videotaping, 4-541
- EXCHEQUER COURT, 22-4 *et seq.*, 22-12 *et seq.*
- EXCISE ACT, 2001 APPEALS
see also GOODS AND SERVICES TAX APPEALS
appeal, 10-15 *et seq.*
appellant's address for service of documents, 10-22.1
assessments, 10-3
binding effect, 10-11
costs, 10-25
discontinuance, 10-24
electronic filing, 10-22.01
expert witnesses, 10-23
filing of notice of appeal, 10-21
filing date, 10-22
filing of other documents, 10-22
notice, 10-12
objections, 10-12
penalties, 10-9
procedural guide, 10-2.1
references, 10-18
refunds, 10-8.1
TCC Rules respecting, 10-20
 forms, 10-36 *et seq.*
- EXCISE TAX ACT
Part IX, 3-9, 3-112, 3-115, 3-118, 3-126, 4-30, 5-4.7, 6-1, 6-2, 21-1
s. 123, 3-10
s. 133, 3-10
s. 134, 3-10
s. 152(1), 6-4.3
s. 228, 6-4
s. 238(1), 6-4
s. 238(1)(a), 6-4
s. 238(2), 6-4
s. 238(4), 6-4
s. 274(6), 6-4.2, 6-4.3
s. 281.1, 21-11 to 21-14
s. 295, 4-357
s. 296(1)(a), 6-4.1
s. 296(1)(b), 6-4.1
s. 296(1)(c), 6-4.1
s. 296(1)(d), 6-4.1

INDEX

EXCISE TAX ACT continued

- s. 296(1)(e), 6-4.1
- s. 297(1), 6-4.1
- s. 297(2), 6-4.1
- s. 297(2.1), 6-4.1
- s. 298, 6-4.7
- s. 298(1)(a)-(f), 6-4.1
- s. 298(2), 6-4.1
- s. 300(1), 6-4.2
- s. 300(2), 6-4.2
- s. 301, 6-28
- s. 301(1), 4-29, 6-4.2
- s. 301(1.1), 6-4.1
- s. 301(3), 6-4.5
- s. 301(4), 3-117
- s. 301(5), 6-4.5
- s. 302, 3-64, 3-117, 6-30, 6-34
- s. 302(a), 6-4.5
- s. 302(b), 6-4.5
- s. 303, 6-26, 6-41
- s. 303(1), 6-4.3
- s. 303(3), 6-4.3
- s. 303(5), 6-4.3
- s. 303(6), 6-4.3
- s. 303(7), 6-4.3
- s. 304, 6-24, 6-41
- s. 304(1), 6-4.4
- s. 304(2), 6-4.4
- s. 304(4), 6-4.4
- s. 305, 6-42
- s. 305(1), 6-4.6
- s. 305(3), 6-4.6
- s. 305(5), 6-4.6
- s. 306, 3-68, 3-117, 6-4.5, 6-23, 6-30, 6-34
- s. 306(b), 6-4.5
- s. 307, 6-4.6, 6-31
- s. 308, 3-75, 3-116, 3-119, 6-4.6, 6-31, 6-34
- s. 308(1), 3-116, 6-31, 6-33
- s. 308(2), 6-32
- s. 309, 6-30, 20-2
- s. 310, 3-133, 3-124, 4-27, 4-66, 6-4.7, 6-30.1
- s. 310(1), 4-21
- s. 310(2), 4-21
- s. 311, 3-64, 3-134, 3-135, 3-136, 4-22, 4-23, 4-27, 4-66, 6-4.7, 15-2
- s. 311(1), 4-22
- s. 311(2), 3-69, 4-23
- s. 311(3), 4-23, 4-24
- s. 311(5), 4-24
- s. 323, 4-621
- s. 323(4), 6-4.1
- s. 323(5), 6-4.1
- s. 324(2), 6-4.2
- s. 324(3), 6-4.2
- s. 325(1), 6-4.2
- s. 325(2), 6-4.2
- s. 327(4), 3-98, 3-99
- ss. 333-335, 16-107
- s. 335, 4-107
- s. 335(1), 4-320
- s. 335(2), 4-320
- s. 335(2.1), 17-102.3
- s. 335(3), 4-320
- s. 335(4), 4-320
- s. 335(5), 4-320, 17-102.02, 17-102.05
- s. 335(6), 4-320, 17-102.2
- s. 335(8), 17-102.3
- s. 335(10), 17-102.3, 17-102.7
- s. 335(11), 17-102.4

EXHIBITS

- references in affidavits, 4-57
- return of, 4-588

EXPENSES, 17-45 *et seq.*

- see also* FEES AND EXPENSES; WITNESS
- FEES AND EXPENSES

EXPERT EVIDENCE

- foreign law, 17-72, *see also* FOREIGN
- AUTHORITIES, jurisprudence of other jurisdictions

EXPERT WITNESS

- different types of, 4-704, 17-52
- working with, 4-707

EXPERTS

- availability, 4-713
- cases, 17-52, *see also under* EVIDENCE IN TAX
- APPEALS (CASES)
- CEA provision (and annotations), A-8
- CPP appeals, 7-26.2
- code of conduct, 4-912, 4-925
 - failure to comply, 4-710
- code of conduct certificate, 4-912
- evidence at hearing, 4-701
- examination for discovery, 4-462, 4-502.2
- fees and expenses

INDEX

- EXPERTS *continued*
disbursement, as, 4-805
Informal Procedure, 5-10
tariff, 4-918
GST appeals, 6-35
Informal Procedure, 5-8
limit of five, 4-711
leave to call more than, 4-711
qualifications, 4-709
report
contents of, 4-707
issue defined by pleadings/written agreement,
4-712
rebuttal, 4-713
surrebuttal, 4-714
time limit for services before hearing, 4-712
witnesses with expertise, 4-704
- EXPLANATORY NOTES, 18-80
- EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS*,
18-50
- EXTENSION OF TIME
cases, 16-88.9, 16-90.1
CPP appeals, 7-18
costs, 4-787
EIA appeals, 8-49
General Procedure, 4-46
GST appeals, 6-17 *et seq.*, 6-40.2, 6-53
Informal Procedure
instituting appeal, 5-14, 5-24
notice of objection, 5-13, 5-22
request for assessment, 5-13, 5-23
- EXTRINSIC EVIDENCE
estoppel, 17-88.3
interpretation of tax statutes, 18-68.5
- FABRICATION, RECENT, 17-104.2
- FAILURE TO APPEAR
General Procedure, 4-671
Informal Procedure, 3-100
- FAIR MARKET VALUE, 11.1-8, 18-140.1
- FAIRNESS, 4-226, 18-39
objections to procedure, 4-654
- FAMILY LAW MATTERS, 4-228
- FAX
CPP appeals, 7-26.4
EIA appeals, 8-60
filing of documents, 4-56
service, 4-105
taxation of costs, and, 4-810
- FCA (APPEAL FROM G.P.) *see also* FEDERAL
COURT OF APPEAL
appeal from G.P., 4-80
appeal from mid-trial ruling, 15-11
extensions of time, 15-17
final vs. interlocutory orders, 15-9, 15-11
what is subject to, 15-8
- FEDERAL COURT
see also FEDERAL COURT OF APPEAL
history
years 1970-83, 22-15 *et seq.*
years 1983-90, 22-19 *et seq.*
judicial review, 14-4
overview, 14-1
recovery of debts and damages, 14-2
- FEDERAL COURT OF APPEAL
appeals based on procedural fairness, 15-13
appeals from decisions re charities, 15-19 *et seq.*
appeals from General Procedure, *see* FCA
(APPEAL FROM G.P.)
appeals from Informal Procedure, 15-13
no appeal of, 15-14
appeals of mid-trial ruling, 15-11
appeals of s. 174 determination, 15-13
appeals to FCA, 15-7, 15-19
application to extend time to appeal, 15-17
cases, 16-104
costs/awards, 15-65, 15-66.3
dismissal for delay, 15-51
final or interlocutory judgments or orders, 15-9
fresh evidence on appeal, 15-51
general principles, 15-24
insufficiency of reasons, 15-55
interventions, 15-57
jurisdiction, 15-58
grounds of appeal for Informal Procedure judg-
ments, 15-15
mootness, 15-58
no appeal from interlocutory rulings, 15-14

INDEX

- FEDERAL COURT OF APPEAL *continued*
pronouncement of judgment, 15-16
raising matters not argued at trial, 15-59
standard of review
 admissibility of evidence, 15-25
 bias, 15-25
 Canadian International Trade Tribunal, 15-26
 constitutional interpretation, 15-26
 discretionary decisions, 15-26
 amendments to pleadings, 15-26
 cost of awards, 15-30
 striking out pleadings, 15-26
 expert testimony, 15-31
 findings of fact/credibility, 15-32
 GAAR, 15-37
 judicial review, 15-38
 jurisdiction, 15-39
 legislative and social facts, 15-40
 mixed fact and law, 15-40
 pleadings, 15-45
 procedural fairness, 15-46
 questions of law, 15-47
stare decisis — whether bound by previous decision, 15-66
stay pending appeal, 15-65
what is subject to appeal, 15-8
whether Court of Appeal bound by previous decisions, 15-66
- FEES AND EXPENSES
payable to Receiver General, 3-73
photocopies, 4-874
reporter's fees (examinations out of court), 4-530
rules committee, 3-102
sheriffs/bailiffs/commissioners, 4-814, 4-920
tariff of fees, 4-918 *et seq.*
witness, *see* WITNESS FEES AND EXPENSES
- FILING
by deposit, mail or fax, 4-56, 4-59
court documents, generally, 4-56, 4-59
determination of question, 4-59
fee, 4-59, 4-62
notice of appeal, 4-59
time for, *see* TIME
- FINAL vs. INTERLOCUTORY ORDERS, 15-11
- FINANCIAL ADMINISTRATION ACT, 4-230.1, 21-2 *et seq.*
- FINANCIAL STATEMENTS, 17-76
- FOREIGN AUTHORITIES
jurisprudence of other jurisdictions, 18-102.2.2.1
 see also EXPERT EVIDENCE, foreign law
- FOREIGN LAW
experts evidence of, 17-72, 17-76.1
proving, 17-76.1
- FORMS
CPP appeals, 7-27 *et seq.*
EIA appeals, 8-64 *et seq.*
General Procedure, 4-876 *et seq.*
GST appeals, 6-46 *et seq.*
Informal Procedure, 5-16.1 *et seq.*
- FOUNDATIONS
see CHARITIES
- FRAUD
allegations of, 4-230.1
burden of proof, 4-627
evidence of, 17-76.1
judgments, effect, 4-861
reply, special rules, 4-164
- FRESH STEP, 4-37
- FRIVOLOUS AND VEXATIOUS, 4-181
- FUNCTUS OFFICIO, 4-845
- GARNISHMENT, 4-867
- GENERAL ANTI-AVOIDANCE RULE (GAAR)
burden of proof, 4-627
Charter (annotations to), 19-44.3
evidence in tax appeals, 17-76.7
examination for discovery, appeals
 questions about documents, 4-482
 scope, 4-469
federal court of appeal, standard of review, 15-37
interpretation of tax statutes, 18-99
pleadings, 4-164
reply to pleading, 4-164
- GENERAL PROCEDURE
appeals to FCA, 3-72
costs to Crown, 3-71

INDEX

- GENERAL PROCEDURE *continued*
discovery, 3-69
fees paid to Receiver General, 3-73
judgment to be mailed, 3-71
order by Court to apply, 3-76, 3-78, 3-118, 3-121
originating document, 3-67
proceeding instituted, 3-67
right to appear, 3-65
rules, *see* GENERAL PROCEDURE RULES
TCCA provision, 3-63 *et seq.*
time to reply, 3-125
- GENERAL PROCEDURE RULES
absence of opposite party, 4-47
administration, 4-873 *et seq.*
admissions, 4-575 *et seq.*
affidavits, 4-57
answers, 4-551
application, 4-30
attacking irregularity, 4-37
 and fresh steps, 4-37
case management, 4-565
computation of time, 4-45
confidentiality order, 4-52
consolidation of proceedings or other order, 4-66
contempt of court, 4-869
costs, 4-718.1 *et seq.*
court documents, 4-48.1 *et seq.*
default judgment, 4-293 *et seq.*
definitions, 4-25 *et seq.*
discovery of documents, 4-330 *et seq.*
discretion of presiding judge, 4-70
dispensing with compliance, interests of justice,
 4-42
effect of refusal, 4-504
examination for discovery, 4-448 *et seq.*
examinations out of court, 4-530 *et seq.*
examinations outside Canada, 4-546
failure to answer, 4-552
filing fee, 4-62
filing of documents, 4-56
filing of transcript, 4-545
filing questions and answers, 4-554
forms, 4-33, 4-876 *et seq.*
generally, 4-1 *et seq.*
hearing (procedure), 4-585 *et seq.*
hearings by teleconference/videoconference,
 4-33
information subsequently obtained, 4-506
improper conduct of written examination,
 4-553
inspection of property, 4-329
institution of proceedings, 4-59 *et seq.*
interests of justice, 4-42
 dispensing with compliance, 4-42
 in forma pauperis appeals, 4-44
interpretation, 4-30 *et seq.*
intervention, 4-71 *et seq.*
joinder/consolidation, 4-64 *et seq.*
judgments, 4-839 *et seq.*
lead cases, 4-715
leave to intervene, 4-71
liberal construction, 4-31
listing for hearing, 4-559
motion for directions, 4-32
motions, 4-298 *et seq.*
non-compliance with rules, 4-36 *et seq.*
notice to be in writing, 4-56
notice to profession re registry hours, 4-61
objections, 4-552
pleadings, 4-109 *et seq.*
practice not provided for, 4-32
procedure at hearing, 4-585
questions of law, 4-281 *et seq.*
relief other than originally directed, 4-867
remedying default, 4-44
representation by counsel, 4-78 *et seq.*, *see also*
 REPRESENTATION BY COUNSEL
security for costs, 4-835
 amount and form of, 4-837
 application for, when to be made, 4-837
 effect of direction, 4-838
seizure, sale and garnishment, 4-867
service, 4-103 *et seq.*
solicitor-client privilege, 4-387
 accounting records of a lawyer, 4-400.1
 commission of crime fraud exception, 4-401
 facts still discoverable, 4-401
 legal advice by Crown counsel, 4-402
 onus, 4-404
 third party communications, 4-405
statement of agreed facts, 4-698
stay of proceedings, 4-68
striking out pleading or other document, 4-181
summary judgment, 4-854.1
taking evidence before hearing, 4-554 *et seq.*
taxation of costs, 4-718.1
third party information, 4-16
time, 4-45 *et seq.*

INDEX

- GENERAL PROCEDURE RULES *continued*
time for filing appeal, 4-63
transfer/transmission of interest, 4-77
videotaping or recording of examination, 4-541
waiver of privilege, 4-409
“without prejudice” communications, 4-496
written interrogatories, 4-549 *et seq.*
- GOODS AND SERVICES TAX
- APPEALS
- amount in dispute (interest accruing), 3-132
amount in issue, election limiting
 election, 6-40.2, 6-52
 notice, 6-50
 waiver, 6-52
appeal to Tax Court, 6-23, 6-28 *et seq.*
appellant’s address for service of documents,
 6-34
assessment, 6-9
burden of proof, 4-652
constitutionality of GST, 3-143, 6-1
contempt of court, 6-44 *et seq.*
costs
 bill of costs, 6-38.01, 6-48
 counsel fees, 6-38
 generally, 6-36
 review of costs, 6-40
 TCCA provisions, 3-118, 3-126, 3-128, 3-129
 witness fees, 6-38.01
definitions, 6-32.4
disbursements, 6-38
discontinuance, 6-36, 6-47
disposition of appeal, 6-30
electronic filing, 6-34
Excise Tax Act provisions, 6-4.8 *et seq.*
expert witness, 6-35
extension of time
 Excise Tax Act provisions, 6-24 *et seq.*
 institution of appeal, 6-41, 6-52
 notice of objection, 6-53
 request, 6-40.2, 6-53
filing date, 6-34
filing of other documents, 6-34
forms, 6-46 *et seq.*
G.P. to apply, 3-83
General Procedure, 6-2
I.P. rules, 6-32.4 *et seq.*
inspection of court documents, 6-43
institution of appeals, 6-29
jurisdiction of TCC, 6-1
minimum amounts owed, 6-16
minister not bound, 6-20
notice of appeal, 6-30, 6-33, 6-35, 6-46
notice of assessment, 6-21
notice of objection, 6-21
overview of procedure
 G.P., 4-9 *et seq.*
 I.P., 6-31 *et seq.*
 preliminary, 6-4 *et seq.*
period of assessment, 6-17
procedural guide, 6-4 *et seq.*, 6-31 *et seq.*
proof, 6-28 rebate
 application for, 6-8.1
 assessment, 6-16
references, 6-30.1
removal to G.P., 6-40.1
reply, 6-35
reporting period, 6-7
return, 6-4.8, 6-5, 6-7
subpoena, 6-42.1
TCCA provisions, 3-81 *et seq.*
time limits
 hearing, 3-125
 reply, 3-123, 3-125
 vexatious proceedings, costs in, 6-40.1
- GOWNING, D-3
- GREENHOUSE GAS POLLUTION PRICING
ACT, 2018, 11-31
- GROSS NEGLIGENCE
defined under s. 163(2), 16-62.10
penalties
 burden of proof, 4-641
 pleading, other material facts, 4-156
 willful blindness, 17-114
reply, 4-150, 4-156
- GST APPEALS
see GOODS AND SERVICES TAX APPEALS
- GST/HST RELIEF PROVISIONS
cancellation or waiver-penalties, interest,
 21-58.17
taxpayer relief provisions, 21-58.17
- GUIDE TO PROCEDURE
see OVERVIEW OF PROCEDURE

INDEX

HEALTH

evidence before hearings, considerations, 4-554

HEARING

absence of opposite party, in, 4-47

absence of witness, 4-671

adjournment, 4-663

argument, 4-660, 4-661

bifurcation, subsec. 171(2) *ITA*, 4-565,
16-100.12

calling witness on subpoena, 4-683

compelling attendance, 4-676

CPP appeals, 7-26

EIA appeals, 8-57

evidence, 4-684 *et seq.*

exclusion of witnesses/troublemakers, 4-586

expert evidence, 4-700

experts, availability, 4-713

failure to appear, 4-671

how appeal set down for, 4-561

in camera, 3-57, 4-585, 4-588, 16-103

interpreters, 4-687

intervention by judge, 4-694

joint application for time/place, 4-905

language of trial/translation, 4-593

listing for, 4-559 *et seq.*

opening statement, 4-590

order of presentation, 4-594

place and date, 4-299, 4-559

procedure at, 4-585 *et seq.*

reopening, 4-668

setting aside judgment, 4-671

setting down appeal for hearing, 4-559

status, 4-561

teleconference/videoconference, by, 4-33

unless judge otherwise directs, 4-592

view by judge, 4-662

when judge seized with matter, 4-593

HEARSAY

assumptions based on

burden of proof, 4-613

reply, 4-140

business records exception, A-52

cases, 17-76.12

no objection on grounds of, 4-462

HIGHEST AND BEST USE, 17-74.2

HISTORY OF APPEALS

years 1917-23, 22-1

years 1923-46, 22-4

years 1946-50, 22-6

years 1950-70, 22-12

years 1970-83, 22-15

years 1983-1990, 22-19

years 1991 and after, 22-21

HOLIDAY

defined, B-26

time limit falling on

General Procedure, 4-45

Interpretation Act provision, B-19

TCCA provision, 3-57

HUMAN RIGHTS ACT, 4-219

HUMANE AND COMPASSIONATE

CONSTRUCTION, 18-44

IMPLIED UNDERTAKING RULE, 4-522

IN CAMERA HEARING, 3-57, 4-585,

4-588, 16-103, *see also* CONFIDENTIALITY,
order

INCOME TAX ACT

s. 18.16(1), 4-63

s. 67.5(2), 16-2.5

s. 84(2), 18-21

s. 85(1), 4-226

s. 110.1, 11.1-1

s. 118.1, 11.1.-1

s. 118.1(10.4), 4-10

s. 122.5, 16-52.3

s. 150, 6-5, 16-1

s. 150(1)(a), 16-1

s. 150(1)(b), 16-2

s. 150(1)(c), 16-2

s. 150(1)(d), 16-2

s. 152, 6-16, 6-16.1, 6-23, 16-2

s. 152(1), 4-26, 4-27, 16-2, 17-36.1

s. 152(1.1), 3-64, 3-69, 3-73, 4-15, 5-4, 16-2.1

s. 152(1.8), 16-2.5

s. 152(1.11), 16-2.1

s. 152(1.2), 4-25

s. 152(2), 4-27, 6-21, 16-2.1

s. 152(3), 4-26, 6-20.1

s. 152(3.1), 16-2.2

INDEX

INCOME TAX ACT continued

- s. 152(4), 3-62, 4-27, 4-630, 16-2, 16-2.2, 16-2.3, 16-2.4
- s. 152(4)(a)(i), 16-2.2
- s. 152(4)(a)(ii), 16-2.2
- s. 152(4)(b), 16-2.3
- s. 152(4)(b)(i), 16-2.5
- s. 152(4)(c), 16-2.2
- s. 152(4.2), 16-2.3, 16-2.6
- s. 152(4.3), 16-2.5
- s. 152(5), 16-2
- s. 152(6), 16-2.3, 16-2.5
- s. 152(7), 6-20.1, 6-23, 16-2, 17-12.3
- s. 152(8), 4-27, 17-99
- s. 152(9), 4-154, 4-265
- s. 160, 4-621, 16-2.1
- s. 160(1), 16-2.1
- s. 160(2), 16-2.1
- s. 164(1.1), 16-2.7, 16-2.10
- s. 164(1.1)(a), 16-2.7
- s. 164(1.1)(b), 16-2.10
- s. 164(1.2), 16-2.8, 16-2.10
- s. 164(1.3), 16-2.8, 16-2.10
- s. 164(4.1), 3-63, 16-2.5
- s. 165, 4-29, 5-4, 6-23
- s. 165(1), 16-2.5
- s. 165(1)(a), 16-2.5
- s. 165(1)(b), 16-2.5
- s. 165(1.1), 16-2.5
- s. 165(1.11), 16-2.6
- s. 165(1.12), 16-2.6
- s. 165(1.13), 16-2.6
- s. 165(1.14), 16-2.6
- s. 165(1.2), 16-2.6
- s. 165(2), 16-2.5
- s. 165(2.1), 16-2.5
- s. 165(3), 4-27, 6-16.1, 16-2.8
- s. 165(3)(a), 4-26, 16-2.8
- s. 165(3)(b), 4-61
- s. 165(5), 16-2.8
- s. 166, 6-20.1
- s. 166.2, 6-26, 6-27, 6-42, 9-23
- s. 166.1(1), 16-2.6
- s. 166.1(3), 16-2.6
- s. 166.1(5), 16-2.7
- s. 166.1(7)(a), 16-2.6
- s. 166.2(1), 16-2.7
- s. 166.2(2), 16-2.7
- s. 167, 4-11, 5-4.1, 6-26, 6-27, 6-42, 9-23, 16-2.9
- s. 167(5), 4-11, 5-4.1, 16-2.9
- s. 169, 3-68, 3-74, 3-82, 4-9, 4-26, 4-27, 5-4, 16-2.8, 16-2.9
- s. 169(2), 16-2.9
- s. 169(2.1), 16-2.9
- s. 169(2.2), 16-2.9
- s. 169(3), 3-62, 16-2.6, 16-2.9, 20-1
- s. 170, 16-2.10
- s. 170(1), 3-81, 4-63, 5-4.1
- s. 171, 4-9, 6-30
- s. 173, 3-24, 3-133, 4-9, 4-10, 4-27, 4-66, 6-30.1, 16-2.10, 16-102.03
- s. 173(1), 4-21
- s. 173(2), 4-21
- s. 174, 3-24, 3-134, 3-135, 4-10, 4-23, 4-27, 4-64, 4-66, 4-70, 4-103, 6-30.3, 15-2, 16-2.7, 16-102.04
- s. 174(1), 4-22
- s. 174(2), 3-69, 4-23
- s. 174(3), 4-23, 4-24
- s. 174(4.1), 4-24
- s. 175, 16-103
- s. 179, 16-103
- s. 179.1, 4-721, 16-104
- s. 180, 15-1, 15-19
- s. 204.1(2.1), 4-249
- s. 204.1(4), 4-249
- s. 220(3.1), 16-2.6, 21-6 to 21-10
- s. 220(3.2), 16-2.4
- s. 220(3.4), 16-2.4, 16-2.5
- s. 239(4), 3-98
- s. 241, 4-357
- s. 244, 4-107, 16-12, 16-107, 17-102, 17-102.6
- s. 244(6.1), 17-102.03
- s. 244(14.1), 17-102.07
- s. 245(6), 16-2.1
- s. 245(8), 16-2.5
- s. 245(8), 16-2.5
- s. 248(7), 17-102.9
- s. 248(30) to (32), 17-76.8.1

INCOME TAX APPEAL BOARD, 22-6 *et seq.*

INCOME TAX CONVENTIONS
INTERPRETATION ACT, C-1 *et seq.*

INCOME TAX TREATIES
see TREATIES

INCOME WAR TAX ACT, 1917, 22-2

INDEX

- INCOMPLETE TRANSACTIONS, 17-80.1
- INCONSISTENT ASSESSMENTS, *see* ASSESSMENT
- INCREASE TAX, *see* ASSESSMENT
- INDEMNITY
 - counsel, client, costs, 4-787
- INDEPENDENT CONTRACTOR VS. EMPLOYEE, 8-44
 - burden of proof, director's liability, 4-65
 - evidence in tax appeals
 - cases, 17-30
 - intention, 17-80.6
- INFORMAL PROCEDURE
 - adjournment, 3-99
 - amended appeal, 3-83
 - amended reply, 3-96.2
 - application, 3-73, 3-114, 3-114.2, 3-115
 - authority to appeal, 3-83
 - costs, 3-106, 3-108, 3-126
 - expeditious hearing, 3-92
 - failure to appear, 3-100
 - filing requirements, 3-84
 - institution of appeal, 3-81
 - judgment
 - application, 3-73, 3-114
 - final/conclusive, 3-105
 - precedential value, none, 3-112
 - reasons for, 3-104
 - late reply, 3-96.1
 - monetary limit, 3-75
 - order at hearing, 3-76, 3-79
 - no examination for discovery, 3-92
 - no interlocutory proceedings, 3-92
 - no precedential value, 3-112
 - no special form of appeal, 3-83
 - not bound by rules of evidence, 3-84
 - notice of hearing, 3-99
 - overview of procedure (chart), 5-4 *et seq.*
 - procedural fairness, 3-93
 - reasons for judgment, 3-104
 - regulations, 3-111
 - reopening hearing, 3-94
 - reply
 - amended, 3-96.2
 - contents of, 3-96
 - late, 3-96.1
 - request for, 3-135
 - right to appear, 3-80
 - rules, *see* INFORMAL PROCEDURE RULES
 - TCCA provisions, 3-73 *et seq.*
 - time limits, 3-94
 - calculation of, 3-98
 - hearing, 3-125
 - judgment, 3-103
 - reply, 3-96.1, 3-123
 - transfer to G.P., 3-78
 - witnesses, exclusion of, 3-91
- INFORMAL PROCEDURE RULES
 - application, 5-4.5
 - for postponement of period of suspension, 5-16
 - costs
 - bill of costs, 5-11, 5-18
 - counsel fees, 5-10.4
 - generally, 5-10
 - review of taxation, 5-11
 - security for costs, 4-835 *et seq.*
 - witness fees, 5-10
 - contempt of court, 5-16.03, *et seq.*
 - definitions, 5-4.6
 - disbursements, 5-10.5
 - discontinuance, 5-10
 - documentary evidence, 5-16
 - election limiting amounts in issue, 5-13, 5-20, 5-21
 - election to have I.P. apply, 5-12, 5-19
 - electronic filing, 5-6
 - expert witnesses, 5-8
 - extension of time
 - instituting appeal, 5-15, 5-24
 - notice of objection, 5-13, 5-22
 - request for assessment, 5-13, 5-23
 - filing date, 5-6
 - filing a notice of appeal, 5-5
 - filing of other documents, 5-6
 - forms, 5-16.1 *et seq.*
 - inspection of court records, 5-16.02
 - judgments, pronouncing and entering, 5-10
 - notice of appeal, 5-5, 5-8, 5-16.1
 - removal to G.P., 5-12
 - reply, 5-7
 - subpoena, 5-16
 - vexatious proceedings, costs in, 5-12, 6-40.1

INDEX

- INFORMANT'S PRIVILEGE, 4-366
- INFORMATION CIRCULARS
IC 92-2, 21-7 *et seq.*
- INSPECTION
court files
 CPP appeals, 7-26.4
 EIA appeals, 8-61
 GST appeals, 6-43
 Informal Procedure, 5-16.02
document in pleading or affidavit, 4-332
documents for discovery, 4-533
list of documents, 4-334, 4-336.1, 4-421, 4-430
notice to inspect, 4-329, 4-890
- INSPECTION OF PROPERTY, 4-329
- INSTALMENTS
amounts deemed paid as, 16-57
interest on, 16-56
none required, 16-43
penalties, 16-72
- INSTITUTION OF PROCEEDINGS
CPP appeals, 7-16
EIA appeals, 8-48
General Procedure, 4-59 *et seq.*
GST appeals, 6-21
TCCA, 3-67
- INTENTION, 17-80.2
see also SECONDARY INTENTION
- INTEREST
accruing after notice of assessment, 3-132
general (late balances), 16-53
instalments, on, 16-56
jurisdiction, 4-232
refunds/repayments, on, 16-72
waiver/cancellation, *see* FAIRNESS PACKAGE
- INTEREST ASSESSMENT APPEALS
amount of interest in issue, calculation, 3-76
Informal Procedure, application, 3-73
- INTERESTS OF JUSTICE, 4-36, 4-44, 4-419
- INTERLOCUTORY APPLICATION
see also MOTIONS
- defined, 4-28
final vs. interlocutory, 15-11
list of applications, 4-298 *et seq.*
taxation of costs, 4-796
- INTERLOCUTORY DECISIONS, 15-9
limited informal procedure appeals, 15-14
no appeal of informal procedure interlocutory decisions, 15-14
no appeal of, 15-14
setting aside, amending, varying, 4-856.1
- INTERPRETATION ACT*
annotations to, *see INTERPRETATION ACT*
(ANNOTATIONS TO)
contents, B-1
text reproduced, B-3 *et seq.*
- INTERPRETATION ACT* (ANNOTATIONS TO)
s. 2 definitions, B-3
s. 3 application, B-5
s. 4 enacting clause, B-5
s. 5 royal assent, B-6
s. 6 operation when date fixed for commencement, B-6
s. 7 preliminary proceedings, B-7
s. 8 territorial operation, B-7
s. 8.1 duality of legal traditions, B-8
s. 8.2 terminology, B-8.3
s. 9 provisions in private Acts, B-8.3
s. 10 law always speaking, B-8.3
s. 11 "shall" and "may", B-8.4
s. 12 enactments deemed remedial, B-9
s. 13 preamble, B-11
s. 14 marginal notes and historical references, B-11
s. 15 application of interpretative provisions, B-11
s. 16 words in regulations, B-13
s. 17 Her Majesty not bound unless stated, B-14
s. 18 proclamations, B-14.02
s. 19 administration of oaths, B-14.1
s. 20 reports to Parliament, B-14.1
s. 21 corporations, B-14.1
s. 22 majorities, B-15
s. 23 public officers, B-16
s. 24 implied powers of public officers, B-18.1
s. 25 documentary evidence, B-18
s. 26 time limits/holidays, B-19
s. 27 clear days, B-20

INDEX

INTERPRETATION ACT (ANNOTATIONS TO)

continued

- s. 28 calculation of time, B-21
- s. 29 time of the day, B-21
- s. 30 age, B-22
- s. 31 ancillary powers, B-22
- s. 32 forms, B-22.01
- s. 33 gender, B-22.2
- s. 33 number (plural/singular), B-22.1
- s. 34 offences, B-22.2
- s. 34.1 authorization to enter dwelling house, B-23
- s. 35 “definitions”, B-23
- s. 35 “holiday”, B-26
- s. 35 “month”, B-27
- s. 35 “person”, B-28
- s. 35 “province”, B-28
- s. 36 construction of “telegraph”, B-31
- s. 37 construction of “year”, B-31
- s. 38 common names, B-32
- s. 39 affirmative and negative resolutions, B-32
- s. 40 citation of enactment, B-33
- s. 41 reference to two or more parts, B-34
- s. 42 repeal and amendment, B-34
- s. 43 effect of repeal, B-34.1
- s. 44 repeal and substitution, B-35
- s. 45 repeal not implying enactment was in force, B-38
- s. 46 effect of demise of Crown, B-43

INTERPRETATION BULLETINS, GUIDES, OR FORMS

- estoppel, 17-35
- interpretation of tax statutes, 18-84

INTERPRETATION OF TAX STATUTES

see also INTERPRETATION ACT (ANNOTATIONS TO)

- Aboriginal peoples, 18-68.4
- “active”, 18-134
- “all or substantially all”, 18-134
- “arrangement”, 18-137
- “artificial”, 18-137
- “as a consequence of/by virtue of/by reason of”, 18-137
- “audit”, 18-138
- “available”, 18-138
- “beneficial owner”, 18-138
- “*bona fide*”, 18-138

- “carry on business”, 18-138
- complementary principles of interpretation, 18-14
 - absolute vs. strict liability, 18-14
 - absurd results, 18-15
 - ambiguities, 18-17
 - amendments, 18-21
 - anti-avoidance provisions, 18-21
 - Charter/Charter* values, 18-21
 - common sense, 18-22
 - conflicting provisions, 18-23
 - contemporanea exposito*, 18-23
 - context, 18-10
 - “cost”, 18-139
 - “debt”, 18-139
 - “deductible/deducted”, 18-140
 - deeming provisions, 18-24
 - definition sections, 18-27
 - departure from general principles of law, 18-31
 - “derived from”, 18-140
 - directory vs. mandatory words, 18-32
 - double taxation, 18-32
 - every provision given meaning (presumption against tautology), 18-35
 - exemption provisions, 18-37
 - “expense”, 18-140
 - “fair market value”, 18-140.1
 - fairness, 18-39
 - generalia specialibus non derogant*, 18-41
 - general vs. specific provisions, 18-41
 - humane and compassionate construction, 18-44
 - implied repeal, 18-44
 - impossibility, 18-44
 - “in the course of”, 18-142
 - incentive provisions, 18-44
 - inconvenient effects, 18-45
 - judicial change in law, 18-45
 - judicial redrafting, 18-45
 - law in force, 18-50
 - long title, 18-58
 - meaning of words from surrounding/similar text, 18-50
 - “and”/“or”, 18-136
 - different words in same statute, 18-50
 - ejusdem generis*, 18-60.4
 - expressio unius est exclusio alterius*, 18-53
 - headings/marginal notes/preambles/titles, 18-51

INDEX

INTERPRETATION OF TAX

STATUTES *continued*

- implied exclusion, 18-53
- noscitur a sociis*, 18-60.4
- punctuation, 18-58
- same words in other statutes, 18-58
- same words in same statute, 18-60.1
- “shall”/“may”, 18-148.2
- statute book as a whole, 18-60.3
- statutes dealing with same subject matter, 18-60.3
- surrounding words, 18-60.4
- vagueness, 18-63
- penalties, 18-64
- policy considerations, 18-65
- predictability and consistency, 18-66.1
- residual presumption for taxpayer, 18-66.1
- scheme of Act, 18-66.1
- singular includes plural, 18-68.1
- social benefit or welfare legislation, 18-68.1
- substance over form, 18-68.3
- symmetry of treatment, 18-68.3
- words, elasticity, 18-68.3
- constitutionality, 18-68.4
- declaratory legislation, 18-76
- disability tax credit, 18-68.1, 18-80
- ejusdem generis*, 18-60.4
- employment insurance, 18-68.4
- equitable considerations, 18-68.5
- extrinsic evidence, 18-68.5
 - accounting principles, 18-68.5
 - administrative practices, 18-68.5
 - bills and draft legislation, 18-68.5
 - budget speeches and papers/Hansard/white papers/debates, commissions, committees, 18-68.6
- CICA Handbook, 18-74
- commercial/economic reality, 18-75
- dictionary definitions, 18-76
- draft legislation, 18-80
- explanatory or technical notes, 18-80
- interpretation bulletins/guides, 18-84
- legislation not proclaimed, 18-89
- legislative history and effect of amendment, 18-89
- model legislation, 18-93
- modern context, 18-93
- notice of ways and means motions, 18-93
- ordinary or technical meaning, 18-93
- prior judicial decisions and interpretation, 18-96
- regulatory impact analysis statements, 18-97
- rulings and opinions, 18-97
- studies, 18-98
- fair, large, liberal construction, 18-99
- “for the purposes of”, 18-141
- foreign law, 18-99
- “forward contract”, 18-141
- “from time to time”, 18-141
- GAAR, 18-99
- “good faith”, 18-141
- goods and services tax, 18-102.1
- “hedge”, 18-142
- “hypothesis”, 18-142
- illegality, 18-102.2
- “in the course of”, 18-142
- Income Tax Act* — nature and purpose, 18-102.2
- interest, 18-143
- international law, 18-102.2.1
- “inventory”, 18-143
- jurisprudence of other jurisdictions, 18-102.2.1
- laws of general application, 18-102.2.3
- limitation periods, 18-102.2.5
- “means”/“includes”, 18-143
- modern approach, 18-3
 - context, 18-10
 - purpose, 18-12
 - text, 18-6
- “*mutatis mutandis*”/“any modification circumstances require”, 18-146
- noscitur a sociis*, 18-60.4
- “notwithstanding any other enactment”, 18-146
- OECD guidelines, 18-102.2.5
- “on behalf of”, 18-146
- “one of the main purposes”, 18-147
- “option”, 18-147
- “or”, 18-147
- “ordinarily”, 18-147
- “ordinarily inhabit”, 18-147
- organizing principle, 18-102.2.6
- other official language, 18-102.2.6
- penalties, 18-103
- “pertaining to”, 18-147
- “portfolio investments”, 18-148
- “prescribed”, 18-148
- presumptions, 18-103, 18-108
- “primary/primarily/principal/principally”, 18-148
- “principal purpose”, 18-148.2

INDEX

INTERPRETATION OF TAX

STATUTES *continued*

principles of horizontal and vertical equity, 18-108
provincial law, 18-109
public policy, 18-111
“purport”, 18-148.2
“purpose”, 18-12, 18-148.2
“reason”, 18-148.3
“reasonable”, 18-148.3
reference to part of enactment, 18-111
regulations, 18-111
regulatory statutes, 18-114
“relating to”/“in relation to”/“in respect of”/“in connection with”, 18-148.4
repeal, 18-114
retrospectivity/retroactivity, 18-114
schedules, 18-118.2
scientific research, 18-118.3
secondary sources, 18-130
“shall”/“may”, 18-148.5
specific vs. general provisions, 18-38
stare decisis and *obiter dicta*, 18-118.3
“substantial” or “substantially”, 18-151
syndicate, 18-151
“taken together”, 18-151
“tax accrual working papers”, 18-152
tax avoidance, 18-118.3
tax policy, 18-120
tax sparing, 18-120
“taxpayer”, 18-152
text, 18-6
“transfer”, 18-153
transfer pricing, 18-121
transitional provisions, 18-121
treaties, 18-121
“undue”, 18-153
United Nations Resolutions, 18-133
unproclaimed legislation, 18-133
“winding-up”, 18-153
“without limiting the generality of the foregoing”, 18-153

INTERPRETER

affidavits, 4-57
Charter, 19-14
costs, 4-811
examination out of court, 4-530
hearing, 4-687

INTERROGATORIES

answers, 4-551
failure to answer, 4-552
form of, 4-550
objections, 4-552

INTERVENTION

by court from witness, 4-694
cases, 4-71
CPP appeals, 7-21, 7-29
EIA appeals, 8-51, 8-52, 8-66
General Procedure, 4-71
in Court of Appeal, 15-57

INVESTIGATION PRIVILEGE, 4-369

IRREGULARITIES, 16-88.7

see also NON-COMPLIANCE WITH RULES

ISSUE ESTOPPEL, 17-37

JOINDER, 4-64

see also CONSOLIDATION

JOINT APPLICATION FOR TIME/PLACE OF HEARING

form, 4-763
rule, 4-559

JOINT OWNERSHIP, 17-84

JUDGES

see also ASSOCIATE CHIEF JUSTICE;
CHIEF JUSTICE
additional office of, 3-22
associate judges, 3-20
bias, apprehension of, 3-13
bound to act *ex necessitate*, 3-18
cessation of office, 3-21, 3-57
defined, 3-7
deputy, 3-21
independence of judiciary, 3-19
interventions by, 4-593, 4-694
judgment after cessation of office, 3-57
oath of office, 3-21
objections to questions and rulings, 4-700.1
power to recall witnesses, 4-700.1
prothonotaries, 3-22
rank/precedence, 3-20
residence, 3-20

INDEX

- JUDGES *continued*
seized, 4-593
supernumerary, 3-22
TCC, in, 1-1, 3-12
tenure, 3-21
- JUDGMENT
adverse party refuses to testify, 4-714
admissions
 Customs Act Part V.1 appeals, 9-23
 documentary evidence, 4-854.1
consent, 4-849, *see also* CONSENT
 JUDGMENTS
delay by appellant, 4-296 *et seq.*
draft, 4-848
enforcement, 4-867
Informal Procedure
 copy to be sent to each party, 3-103
 final and conclusive, 3-105
 language of, 4-840
 no precedential value, 3-112
 reasons for, 3-104, 4-841
 rendering/issuing order, 4-840
 signing/pronouncement, 4-840.1
mailing of, 3-71
question of law, 4-281
reasons, 4-841
reconsideration, 4-845
relief other than originally directed, 4-867
setting aside/facts arising after, or fraud, 4-861
setting aside/failure to appear, 4-671
setting aside/varying accidental errors, 4-858
setting aside/varying interlocutory, 4-856.1
suspend operation of, 4-865
without notice, 4-300
- JUDGMENT DEBTOR EXAMINATION, 4-868
- JUDICIAL ADMINISTRATOR, 3-148
- JUDICIAL ADMISSIONS, 17-84.5
- JUDICIAL COMITY, 3-46
provincial superior courts, 3-48
- JUDICIAL FINDINGS, 17-84.5
- JUDICIAL NOTICE, 17-84.5
- JUDICIAL REVIEW
Access to Information Act, 14-191
cannot be indirect tax appeal, 14-72
compliance orders, 14-55
decision of Minister not to extend time, 14-19
decision of Minister not to reassess with taxpayer's consent, 14-37
decision of Minister not to recommend remission, 14-36.1
decision of Minister not to waive or cancel penalty or interest, 14-20.1
decision of Minister not to waive tax on excess RRSP/TFSA contribution, 14-35
decision of Minister on settlement, 14-38
decision of Minister to obtain search warrant, 14-38
decision of Minister to refuse application for refund of overpayment, 14-39
declarations as to tax liability, misconduct, 14-39
discretion in collection, payment plans, 14-44
discretion of competent authority, 14-46
discretion to designate, 14-47
discretion to reassess, 14-47
discretionary decision — reappropriate account balances, 14-44
electronic filing, 4-226
extensions of time, 14-19, 14-49, 14-65
FCA s. 18.1(1) - *Charter* and *Charter* values, 14-18
FCA s. 18.1(2) - communication of decision, 14-64.2
FCA s. 18.1(2) - in respect of decision, 14-62.1
FCA s. 18.1(3) - powers of Trial Division, 14-66
FCA s. 18.1(4) - grounds of review, 14-67
FCA s. 18.2 - interim orders, 14-70
FCA s. 18.3 - reference by federal tribunal, 14-70
FCA s. 18.4 - summary hearings, 14-71
FCA s. 18.5 - exceptions, 14-72
Federal Court Rules applying, 14-84
fettering discretion, 14-49
generally, 14-8
jeopardy orders, 14-50
mandamus, 14-51
notices of determination, 14-53
procedural fairness, 14-53
refund interest, 14-55
refusal to accept SR&ED claim for filing, 14-55
refusal to issue certificate, 14-55
remission requests, 14-55
requirements for information and compliance orders, 14-55
requirements to pay, 14-59

INDEX

- JUDICIAL REVIEW *continued*
revocation of a certificate, 14-59
revocation of EFILE and online access, 14-60
standard of review, 14-60
staying order of Tax Court, 14-84
third party mistakes, 14-60
validity of assessment, 14-60
voluntary disclosure program, 14-60
- JURISDICTION
see also JURISDICTION, LACK OF
alternative dispute resolution, 4-218
ATSCA appeals, 11-3
bankruptcy, 4-219
cases, 3-25 *et seq.*
CPP appeals, 7-1
cultural property, 11.1-1
EIA appeals, 8-1
FCTD, 14-1, 14-2
generally, 22-21, 22-22
GST appeals, 6-1
OAS appeals, 11-17
pleading, 4-164
TCCA provisions, 3-22 *et seq.*
 abstract questions, 4-203
 apportioning liability, 3-43, 4-219
 Bill of Rights, 3-37
 can raise on own motion, 3-29
 cannot acquire by consent, 3-29
 Charter of Rights and Freedoms, 3-37
 collateral matters, 3-38.4
 constitutional grounds, 3-38.3
 function of Court on appeal, 3-25
 implied, 3-30
 issues not raised in Notice of Objection, 3-45
 issues not raised in pleadings, 3-42
 judicial comity, 3-46
 obiter dicta, 3-52.5
 orders of provincial superior courts, 3-48
 original, 3-38.3
 sections of Act not pleaded, 3-42
 seized with a matter, 3-52.5
 sovereignty, 3-52.5
 stare decisis, 3-52 *et seq.*
 transfer pricing adjustment request, 3-52.7
 statutory court with limited jurisdiction, 3-25
 voluntary disclosure applications, 4-251
veterans appeals, 11-21
- JURISDICTION, LACK OF
abuse of power, 4-203
abuse of process, 4-203
accounting for payments/source deductions/
 withholdings, 4-217
administrative policy, 4-218
alternative dispute resolution, 4-218
Canadian Human Rights Act, 4-219
certificate of debt, 4-230
certificate of liability, 4-220
Charter of Rights and Freedoms, 4-220
collections, 4-221
confidentiality, 4-223
constitutionality, 4-223
cost of compliance, 4-223
customs drawbacks, 4-223
damages, 4-223
declaratory relief, 4-224
discretionary decisions, 4-225
duty to inform, 4-225
elections, 4-225
electronic filing, 4-226
equity, 4-226
failure to meet time limit, 4-255
fairness decisions, 4-228
family law matters, 4-228
fraud, 4-229
freedom of conscience/religion, 4-231
generally, 4-202
increase tax, 4-231
interest, 4-232, 4-235
lesser penalties, 4-234
objections, 4-236
officially induced error, 4-236
prerogative remedies, 4-236
prior years, 4-254
Privacy Act, 4-237
provincial tax/penalties, 4-238
rebate of GST, 4-240
repayments/refunds/set-off, 4-241
revised return, 4-246
search warrants, 4-247
settlement offers, 4-247
sovereignty, 4-247
statements of account, 4-248
subsequent years, 4-255
tax benefits/credits, 4-248
tax, interest, penalty not in issue, 4-249
tax on excess RRSP contributions, 4-248
Taxpayer Bill of Rights, 4-249
time to file discretion, 4-235

INDEX

- JURISDICTION, LACK OF *continued*
Universal Child Care Benefit Act, 4-250
voluntary disclosure applications, 4-251
waiver of interest/penalties, 4-235
- JUSTICE, DEPARTMENT OF, offices, 2-1
- LAWYER
see COUNSEL
- LEAD CASES, 4-715
agreement to be bound by, 4-913
- LEGAL CAPACITY, 4-77, 4-255 *et seq.*
amalgamation/plan of arrangement, 4-255
bankruptcy, 4-256
creditors, 4-258
death, 4-258
directors, 4-259
dissolved corporation, 4-260
estates, 4-262
family members, 4-263
investors, 4-263
not authorized by shareholders, 4-263
standing, 4-263
transferee of property/derivative assessments, 4-264
- LEGISLATIVE FACTS/SOCIAL FACTS, 17-85
- LEGITIMATE EXPECTATIONS, 17-86.04
- LIABILITY (absolute vs. strict), 18-14
- LIMITATION PERIOD, 16-18.1
see also TIME
- LIMITATIONS
see TIME
- LIST OF DOCUMENTS
affidavit incomplete/privilege improperly claimed, 4-437
affidavit of documents (corporation/CRA), 4-894
affidavit of documents (individual), 4-893
application to the court, 4-339
description of documents, 4-421
full disclosure
form, 4-892
rule, 4-336.1
list incomplete, 4-435
partial disclosure
form, 4-890
rule, 4-334
privilege is claimed, 4-351
solicitor's obligation, 4-350
- LISTING FOR HEARING, 4-559 *et seq.*
- LITIGATION PRIVILEGE
common interest, 4-354
expert's report, 4-377
generally, 4-370
witness interviews, 4-378
- LITIGATION PROCESS CONFERENCE, *see also* STATUS HEARING; CASE MANAGEMENT; TRIAL MANAGEMENT CONFERENCE; SETTLEMENT CONFERENCE
defined, 4-29
memorandum or direction, 4-572.1
no disclosure to court, 4-573
- MAIL
date of serving (document sent from Registry), 4-874
filing of documents, 4-56
mailing date, 17-102.3
proof of service by, 17-102.6
service, 4-105
- MINISTERIAL DISCRETION, 4-235
- MINISTER'S CONDUCT, 4-203
- MISREPRESENTATION
allegations of, 4-157
burden of proof, 4-630
cases, 16-22
pleadings, reply, 4-150, 4-157
- MOTION FOR DIRECTIONS
see also DIRECTIONS
matters not provided for in rules, 4-30
remedying default after, 4-44
time extensions/abridgements, 4-46
- MOTIONS
affidavit of counsel, 4-310

INDEX

- MOTIONS *continued*
affidavits, 4-309 *et seq.*
affidavits in opposition, 4-305
costs, 4-307, 4-734
cross-examination on affidavit, 4-320
date of hearing, 4-299
disposition of, 4-307, 4-309
evidence, 4-309 *et seq.*
evidence by examination for discovery, 4-327
ex parte, 4-302
full and fair disclosure, 4-319
grounds, 4-301
interlocutory, *see* INTERLOCUTORY APPLICATION
judgment without notice, 4-300
material non-disclosure, 4-319
nonsuit, 4-639
notice of motion, 4-300, 4-305, 4-889
oral evidence, 4-328
place of hearing, 4-299
practice note, D-4
re-examination on affidavit, 4-326
service of notice, 4-300
supplementary affidavit, 4-326
teleconference/videoconference, by, 4-33
withdrawing affidavit, 4-327
written representations, 4-306
- NATURAL JUSTICE
audi alteram partem, 4-657
exclude evidence, 4-660
procedural fairness and, 4-657
- NET WORTH ASSESSMENTS
burden of proof, 4-634
generally, 16-32.3
- NEWSPAPERS
hearings, evidence of particular facts,
production, 4-684
- NIL ASSESSMENT, 16-95
- NON-ARM'S LENGTH TRANSFERS
burden of proof, 4-621
cases, 16-46
- NON-COMPLIANCE WITH RULES
attacking irregularity, 4-37
CPP appeals, 7-26.4
- dispensing with compliance, 4-42
effect of non-compliance, 4-36
examinations out of court, 4-539
failure to answer written interrogatories, 4-552
failure to disclose documents, 4-446
failure to disclose information subsequently
obtained, 4-506
remediating default, 4-44
status hearing, 4-561
- NONSUIT MOTIONS, 4-639
- NOSCITUR A SOCIIS*, 18-60.4
- NOTICE
adverse party as witness, intention to call,
4-714
cases, 17-86.06
costs, liability of counsel, 4-787
inspection of property, 4-329
production of document in possession of
non-party, 4-432
security for costs, compliance, 4-838
status hearing, 4-561
proof of notice, 4-565
writing, to be in, 4-56
- NOTICE OF APPEAL
condition precedent, 4-117
contents, 4-116 *et seq.*
CPP appeals, 7-16, 7-27
EIA appeals, 8-48, 8-64
General Procedure
filing, 4-59
form, 4-880
rule, 4-59
GST appeals, 6-33, 6-34, 6-46
Informal Procedure, 5-5, 5-7, 5-16.1
under separate Acts, 4-219
- NOTICE OF APPOINTMENT
statements of account, 4-248
taxation of costs
form, 4-914, 4-915
rule, 4-829
- NOTICE OF ASSESSMENT
see ASSESSMENT
- NOTICE OF CONSTITUTIONAL QUESTION

INDEX

- NOTICE OF CONSTITUTIONAL QUESTION
continued
see CONSTITUTIONAL QUESTIONS
- NOTICE OF MOTION
see also MOTIONS
form, 4-889
place and date of hearing, 4-299
rule, 4-298
service, 4-300
- NOTICE OF OBJECTION
defined, 4-29
extension of time
 GST appeals, 6-40.2, 6-53
 Informal Procedure, 5-13, 5-22
issues not raised in, 3-44
- NOTICE TO ATTEND
examination out of court
 form, 4-895
 rule, 4-530
examinee to be given notice of time and place,
 4-532
- NOTICE TO DELIVER
bill of costs
 form, 4-915
 rule, 4-829
- NOTICE TO INSPECT
documents for discovery
 form, 4-890
 rule, 4-332
- OATHS AND AFFIDAVITS, 3-137, A-36.3
- OBITER DICTA*, 3-52.5
- OBJECTIONS, 4-236
- OECD GUIDELINES, 18-102.2.5
- OFFICERS OF THE COURT, 3-65
- OFFICIAL LANGUAGE, 18-102.2.6
- OLD AGE SECURITY ACT APPEALS*, 11-17
- ONUS OF PROOF
see BURDEN OF PROOF
- OTHER TAXPAYERS
see EVIDENCE
see also CONFIDENTIALITY, s. 241 *ITA/s.* 295
 ETA
- OVERVIEW OF PROCEDURE
capsule form, 3-5
Air Travellers Security Charge Act, 11-3 *et seq.*
Customs Act, 9-3 *et seq.*
CPP appeals
 employer/employee, 7-4 *et seq.*
 self-employed persons, 7-4.8
EIA appeals, 8-3 *et seq.*
GST appeals
 General Procedure, 4-9 *et seq.*
 Informal Procedure, 6-31 *et seq.*
 preliminary, 6-4 *et seq.*
ITA appeals
 General Procedure, 4-9 *et seq.*
 Informal Procedure, 5-4 *et seq.*
 preliminary, 16-1 *et seq.*
objections to, 4-654
references
 ETA, s. 310, 4-21
 ETA, s. 311, 4-22 *et seq.*
 ITA, s. 173, 4-21
 ITA, s. 174, 4-22 *et seq.*
- OWNERSHIP, 17-88.1
- PAROL EVIDENCE RULE, 17-88.3
- PARTICULAR FACTS
direction as to proof of, 4-684
- PARTICULARS, DEMAND FOR, 4-173
affidavit supporting particulars, 4-180
facts not arguments, 4-175
general principles, 4-174
knowledge of applicant, 4-179
purpose of discovery and trial, 4-178
purpose of pleadings, 4-175
time for applying, 4-181
- PARTIES
leave to intervene, 4-71
representation by counsel, *see* REPRESENTATION BY COUNSEL

INDEX

- PARTIES *continued*
right to appear, 3-80
status hearing, attendance, 4-561
transfer/transmission of interest, 4-77
- PARTNERSHIP, 16-4, 17-92
limitations on objections, 16-82.1
- PARTY UNDER DISABILITY
see DISABILITY, PARTY UNDER PAYMENT *see* RETURNS, ASSESSMENTS, PAYMENT AND APPEALS
- PAYMENT INTO/OUT OF COURT, 4-838
- PENALTIES
blindness, 17-114
burden of proof, 4-641, 16-69
due diligence defence, 16-60
false statements/omissions, 16-68.1
gross negligence
 burden of proof, 4-641
 pleading, other material facts, 4-156
 willful blindness, 17-114
late/deficient instalments, 16-69
late filing, 16-58
lesser, 4-234
repeated failure to file return, 16-62.03
repeated failures, 16-62.06
waiver/cancellation, *see* FAIRNESS PACKAGE
- PIERCING CORPORATE VEIL, 17-18
- PLACEMENT AGENCIES, 8-28.2
- PLEADINGS
see also ANSWER; NOTICE OF APPEAL;
REPLY
abuse of court, 4-181
amendments, 4-264 *et seq.*
cases, 17-95
close of, 4-115
document/conversation, 4-171
foreign law, 4-123
form of, 4-115
function of, 4-109
GAAR, 4-164
generally, 4-109 *et seq.*
inconsistent allegations, 4-171
jurisdiction, 4-165
misrepresentation/gross negligence, 4-156
particulars, demand for, 4-173
 knowledge of applicant, 4-179
pleading jurisdiction, 4-165
prejudice/delay fair hearing, 4-188
raising matters not pleaded, 4-660
required pleadings, 4-109
rules, generally, 4-170
scandalous/frivolous/vexatious, 4-188
striking out, *see* STRIKING OUT PLEADINGS
special rules, 4-164
- PRACTICE NOTES
addressing the judges, D-14
affidavits, remote (COVID-19), D-30.1
associate judges, D-53
Bill C-60, D-33
books of documents, D-32
common books of authorities, D-34
consent to judgment, D-22
COVID-19 practice direction and order, D-36
COVID-19 safety measures, D-44
electronic notes, D-32
electronic service of documents, D-40
electronic signatures, D-30.2
experts' panel, D-24
gowning, D-3
Hamilton office opening, D-36
hearing locations, D-6
hot tubbing, D-24
Informal Procedure rules amendments, D-19
motion days, D-53
motions, D-4
National Day for Truth and Reconciliation, D-39
online filing, D-31
preliminary ruling docket, D-26
privacy and public access to court files, D-18
requests for interpretation services, D-17
requests to amend timetable order, D-15
security screening of visitors, D-35
settlements
 conferences, D-23
 fast-track, D-30
sitting weeks, D-36
status hearing, D-10
style of cause for proceedings, D-52
teleconference hearings, D-5
time limits (COVID-19), D-38

INDEX

- PRACTICE NOTES *continued*
translation services, D-31
trial dates, D-9
undertakings/discovery, D-12
urgent telephone calls outside hours, D-13
use of discovery, D-13
videoconference hearings, D-5
virtual and hybrid proceedings, D-54
- PREROGATIVE REMEDIES, 4-236
- PRESS RELEASES, 18-80
- PRESUMPTIONS
see also BURDEN OF PROOF
allegations of fact admitted, 4-127
allegations of fact denied, 4-128
cases, 17-95
ITA, s. 244, 17-102 *et seq.*
- PRIOR CONSISTENT STATEMENTS, 17-99
- PRIOR CONVICTIONS, 17-100
- PRIOR INCONSISTENT STATEMENTS, A-19,
A-25, A-33
- PRIVACY ACT, 4-237
- PRIVILEGE
absolute, 3-19
accountants, communications with, 4-352
cases, 17-101
common interest, 4-354
 litigation, 4-354
 transactions, 4-355
deliberative process, 4-364
describing privileged documents, 4-423
editing/redacting documents, 4-427
informant's, 4-366
investigation, 4-369
journalist-confidential source, 4-370
lawyer, accounting records, 4-400.1
litigation, 4-370
 common interest, 4-354
 expert's report, 4-377
 witness interviews, 4-378
onus, 4-404
parliamentary, 4-386, 17-88.3
prosecutorial immunity, 4-386
public interest, 4-387, 4-407
questions raising claims of, 4-484
solicitor-client, 4-387 *et seq.*
statements on discovery, 4-450
tax planning communications, 4-407
"third party rule", 4-408
waiver, 4-409
 inadvertent disclosure of documents, 4-415
- PROCEDURAL FAIRNESS
see *AUDI ALTERAM PARTEM*, FAIRNESS,
JUDGES, NATURAL JUSTICE
- PROCEDURE *see* OVERVIEW OF PROCEDURE
- PRODUCTION OF DOCUMENTS, 4-332
see also DISCOVERY OF DOCUMENTS
- PROTHONOTARIES, 3-22
- PROVINCIAL LAW — APPLICATION
application of provincial law, 18-109, B-7
power to decide collateral matters, 3-38.4, 3-48
reciprocal tax agreements and Crown immunity,
3-52
- PROVINCIAL LAWS OF EVIDENCE, 17-103,
A-68.1
- PROVINCIAL TAX/PENALTIES, 4-238
- PUBLIC INTEREST IMMUNITY/PRIVILEGE,
4-387
- PUBLIC INTEREST PRIVILEGE, 4-387, A-60.8.9
- QUESTIONS, DETERMINATION OF
determination of, 4-282
rule, 4-281
- REASSESSMENT
see ASSESSMENT; RETURNS, ASSES-
MENTS, PAYMENTS AND APPEALS
- REBUTTAL EVIDENCE, 4-655, 17-104.1, A-32
- RECHARACTERIZATION
see RETURNS, ASSESSMENTS, PAYMENT,
AND APPEALS

INDEX

- RECIPROCAL TAXATION AGREEMENTS AND CROWN IMMUNITY, 3-52
- RECOVERY OF DEBT/DAMAGES, 14-2
- RECTIFICATION ORDERS, REFERENCES
- Excise Tax Act*, s. 310
 - applicable procedure, 3-133
 - originating document, 4-59, 4-881
 - overview (chart), 4-21
 - text of section, 6-30.1
 - Excise Tax Act*, s. 311
 - applicable procedure, 3-134
 - I.P. to apply, 3-134
 - originating document, 4-59, 4-882
 - overview (chart), 4-22
 - service on taxpayer, 4-63
 - text of section, 6-30.1 *et seq.*
 - Income Tax Act*, s. 173
 - applicable procedure, 3-133
 - cases, 16-102.03
 - originating document, 4-59, 4-881
 - overview (chart), 4-21
 - service on taxpayer, 4-63
 - Income Tax Act*, s. 174
 - cases, 16-102.02
 - request for I.P., 3-94
 - originating document, 4-882
 - TCCA provisions, 3-132
 - transfer/transmission of interest, 4-77
- REFRESHING MEMORY, 17-106.02, A-19
- REFUND
- see* REPAYMENT/REFUND
- REGISTRAR
- absence/inability to act, 4-869
 - commission evidence, 4-546
 - examinations out of court (interpreter), 4-530
 - hearing, notice of time/place, 4-559
 - subpoena, 4-676
 - transfer/transmission of interest, 4-77
- REGISTRY
- books and records, 4-873
 - defined, 4-29
 - fees and expenses, 4-874
 - office hours, D-13
 - offices, 4-29
 - payment into/out of court, 4-838
 - principal office, 4-29
 - registered mail date, 4-874
 - TCCA provision, 3-146
 - urgent telephone calls, D-13
- RELIABILITY
- evidence in tax appeals (cases), 17-26.1
- REMISSION ORDERS, 21-2 *et seq.*
- REOPENING
- hearing, 4-668
- REPAYMENT/REFUND
- cases, 4-241, 16-72
 - interest on, 16-72
 - objections/appeals, on, 16-71
 - “overpayment” defined, 16-74
 - overpayment refunds, 16-72
 - remission orders, 21-2 *et seq.*
- REPLY
- alternative or inconsistent assumptions, 4-148
 - assumptions, conclusions of law, 4-142
 - assumptions based on hearsay, 4-140
 - assumptions of fact, not evidence, 4-139
 - CPP appeals, 7-22
 - EIA appeals, 8-52.1
 - facts deemed admitted, 4-169
 - facts that are admitted, 4-127
 - facts that are denied, 4-128
 - findings/assumptions of fact, 4-130
 - gross negligence, 4-150, 4-156
 - GST appeals, 6-35
 - implicit or inferred assumptions, 4-148
 - Informal Procedure, 3-94, 3-97, 5-7
 - issues to be decided, 4-159
 - no knowledge, 4-130
 - misrepresentation, 4-150, 4-157
 - not pleaded, 4-150
 - other material facts, 4-154
 - reasons respondent intends to rely on, 4-164
 - relevance of assumptions, 4-150
 - rule, 4-125
 - structure of, 4-126
 - special rules, 4-164
 - dishonesty or fraud, 4-164
 - pleading GAAR, 4-164
 - pleading jurisdiction, 4-165

INDEX

- REPLY *continued*
statutory provisions relied on, 4-160
third parties, 4-152
time for delivery, 4-111, 4-114
- REPRESENTATION BY COUNSEL
see also COUNSEL
authority of counsel, 4-83
cases, 4-79
change of representation, 4-97
corporation, 4-91
Crown, 4-88
defined, 4-81
duty of counsel, 4-85
evidence from counsel, 4-86
generally, 4-81
record, 4-91
rule, 4-78
self-represented litigants “act in person”, 4-79
- REQUEST TO ADMIT FACT OR DOCUMENT
effect of, 4-576
generally, 4-575
withdrawal of, 4-579
- REQUISITION
form, 4-879
rule, 4-59
- RES JUDICATA, 17-37, 17-106.4
- RETROSPECTIVITY/RETROACTIVITY, 18-114
- RETURNS, ASSESSMENTS, PAYMENTS AND APPEALS
s. 150 returns, 16-2.8
s. 150(2) demand for returns, 16-3
s. 150(3) trustees, *etc.*, 16-3
s. 150(4) death of partner or proprietor, 16-4
s. 150.1 electronic filing, 16-4
s. 151 estimate of tax, 16-4
s. 152 assessment, *see* ASSESSMENT
s. 152(1.01) determination of disability tax credit eligibility, 16-10.02
s. 152(1.1) determination of losses, 16-10.02
s. 152(1.2) *ITA* provisions applicable, 16-10.04
s. 152(1.4) determination in respect of partnership, 16-10.05
s. 152(1.7) binding effect of determination, 16-10.05
s. 152(1.8) time to assess, 16-10.05
s. 152(2)
receipt of notice of assessment, 16-10.06
sending of notice of assessment, 16-10.06
s. 152(3) incorrect/incomplete assessment
form of notice of assessment, 16-12
nature of assessment and liability for tax, 16-8
s. 152(3.1) normal reassessment period, 16-18
s. 152(4)/s. 298(4) ETA, assessment, reassessment, additional assessment
additional assessment, 16-22
general, 16-18.1
limitation period, 16-18.1
misrepresentation, 16-22, 16-29
recalculation or recharacterization, 16-30.3
waivers, 16-30.7
s. 152(4.01) assessment to which paras. 152(4)(a), (b), (c) apply, 16-30.12
s. 152(4.2) reassessment with taxpayer’s consent, 16-30.12.2
s. 152(4.3) consequential assessment, 16-30.15
s. 152(5) limitation on assessments, 16-32
s. 152(6) reassessment following amendment of return, 16-32.1
s. 152(7) arbitrary assessments, 16-32.3
bank deposits/cash flow analysis, 16-32.4.1
burden of proof on a net worth appeal, 16-32.6
cannot increase liability, 16-32.6
extrapolations, 16-32.7
generally, 16-32.1
method of last resort, 16-32.8
net worth methodology, 16-32.9
no limitation period, 16-32.13
onus and burden of proof, 16-32.13
presumption of validity, 16-32.13
use of statistical information, 16-33
s. 152(8) assessment deemed valid, 16-34
s. 152(9) alternative arguments, 16-38
s. 153 withholding, 16-38.2.3
s. 153(1.1) undue hardship, 16-39
s. 153(1.3) payments by trustee, *etc.*, 16-39
s. 153(1.4) definition of “trustee”, 16-41
s. 153(2) payment of remainder, 16-41
s. 153(3) effect of deduction, 16-41
s. 155 farmers and fishermen, 16-41
s. 156 instalments, 16-42
s. 156 other individuals, 16-42
s. 156.1 no instalment required, 16-43

INDEX

RETURNS, ASSESSMENTS, PAYMENTS AND APPEALS *continued*

- s. 157(1) corporations, 16-43
- s. 158(1) payment of remainder, 16-43
- s. 158(2) opinion of minister [repealed], 16-44
- s. 159 payments on behalf of others, 16-44
- s. 159(2) certificate before distribution, 16-44.1
- s. 159(3) personal liability, 16-45
- s. 160 *ITA/s. 325 ETA*, 16-46
 - arm's length transfer, 16-46
 - beneficial ownership/trusts, 16-46
 - benefit to transferee, 16-46.02
 - complete *Code*, 16-46.02.1
 - consideration for transfer, 16-46.02.1
 - due diligence/knowledge of transferee, 16-46.05
 - effect of bankruptcy, 16-46.06
 - extent of liability, 16-46.06
 - fair market value, 16-46.1
 - family obligations, 16-46.1
 - lack of intention, 16-46.3
 - onus and burden of proof, 16-46.4
 - provincial exemptions from seizure, 16-46.4
 - purpose of s. 160, 16-47
 - subsequent transfers (cascading assessments), 16-48
 - time of application, 16-48.1
 - transfer of property, 16-50
 - transferee, 16-51
 - underlying assessment, 16-51
- s. 160(2) Minister may assess transferee, 16-52.1
- s. 160(3) rules applicable, 16-52.2
- s. 160(4) special rules re transfers to spouse, 16-52.2
- s. 160.1 where excess refunded, 16-52.3
- s. 160.2(1) RRSP joint and several liability, 16-53
- s. 161 interest (general on late balances), 16-53
- s. 161(2) interest on instalments, 16-56
- s. 161(4.1) limitation respecting corporations, 16-57
- s. 161(6) blocked currency, 16-58
- s. 161(7) effect of loss carryback, 16-58
- s. 161(8) amounts deemed paid as instalments, 16-58
- s. 162 failure to file return, 16-58
- s. 162 due diligence defence, 16-60
- s. 162(2) repeated failure to file return, 16-62.03
- s. 162(2.1) failure to file — non-resident corporation, 16-62.04
- s. 162(7) failure to comply, 16-62.05
- s. 162(7.1) failure to make partnership information return, 16-62.06
- s. 162(7.2) failure to file corporate return electronically, 16-62.06
- s. 162(11) effect of subsequent events, 16-62.06
- s. 163(1) penalties for repeated failures, 16-62.06
- s. 163(2) penalties for false statements or omissions
 - amount need not be proven precisely, 16-62.20
 - amount of penalty where no tax or tax changes, 16-62.3
 - bank deposits, 16-62.4
 - benefit of the doubt, 16-62.4
 - books and records, 16-62.5
 - burden of proof, 16-62.6
 - capital gains, 16-62.7
 - carelessness/*bona fide* filing positions/inadvertent mistakes, 16-62.7
 - charitable donations, 16-62.8
 - education and experience of taxpayer, 16-62.9
 - generally, 16-62.1
 - gross negligence defined, 16-62.10
 - indifference/ignorance of the law/wilful blindness, 16-62.13
 - magnitude of omission, 16-62.18
 - net worth assessments, 16-62.20
 - not criminal, 16-63
 - onus and burden of proof, 16-62.18
 - reliance on third parties, 16-64
 - returns required, 16-67
 - T1 adjustment requests, 16-68
 - valuation, 16-68
- s. 163(2.1) interpretation, 16-68
- s. 163(2.4) false statement or omission, 16-68.1
- s. 163(3) burden of proof in respect of penalties, 16-69
- s. 163.1 penalty for late or deficient instalments, 16-69
- s. 163.2 third party civil penalties, 16-69
- s. 164 refunds, 16-69
- s. 164(1.1) repayments on objections/appeals, 16-71
- s. 164(1.2) collection in jeopardy, 16-71
- s. 164(1.5) refunds of overpayments, 16-72
- s. 164(3), (3.1) interest on refunds and repayments, 16-72
- s. 164(4.1) duty of Minister, 16-73
- s. 164(7) "overpayment" defined, 16-74
- s. 165(1) objections to assessment, 16-74

INDEX

RETURNS, ASSESSMENTS, PAYMENTS AND APPEALS *continued*

- s. 165(1.1)/s. 306.1(1) *ETA* limitation of right to object, 16-80
- s. 165(1.11)/s. 301(1.2) *ETA* limitation on objection by large corporations, 16-81
- s. 165(1.15) limitation on objections by partnerships, 16-82.1
- s. 165(1.2) limitation on objections, 16-82.1
- s. 165(2) service, 16-83
- s. 165(2.1) limitations on appeals by large corporations, 16-84
- s. 165(3) duties of Minister on objection, 16-84
- s. 165(3)(a) reconsideration with dispatch, 16-88.2
- s. 165(5)/s. 298(3) *ETA* validity of reassessment, 16-88.4
- s. 165(6) validity of notice of objection, 16-88.6
- s. 165(7)/s. 302 *ETA* no notice of objection required, 16-88.6
- s. 166/s. 299(5) *ETA* irregularities, 16-88.7
- s. 166.1, 166.2/s. 303, 304 *ETA* extension of time to object, 16-88.9
- s. 167/s. 305 *ETA* extension of time to appeal, 16-90.1
- s. 168 notice of intention to revoke registration, 16-90.12
- s. 169 appeals, 16-91
- s. 169(1)(b) appeal without confirmation, 16-92.3
- s. 169(1)(b) no appeal after 90 days, 16-92.3
- s. 169(2) limitation of right to appeal from assessments or determinations, 16-100.3
- s. 169(2.1) limitation on appeals by large corporations, 16-100.3
- s. 169(2.2) waived issues, 16-100.5
- s. 169(3) disposition of appeal on consent, 16-100.8
- s. 171 disposal of appeal, 16-100.9
- s. 171(1.1) ecological gifts, 16-100.12
- s. 171(2) partial disposition of appeal, 16-100.12
- s. 172(3) appeal from refusal to register, 16-101
- s. 172(4) deemed refusal to register, 16-102.02
- s. 173 references to TCC, 16-102.3
- s. 174 reference of common questions to TCC, 16-102.3
- s. 175 institution of appeals, 16-103
- s. 179 hearings *in camera*, 16-103
- s. 179.1 no reasonable grounds for appeal, 16-104
- s. 180 appeals to FCA, 16-104
- s. 185 excessive CDA elections, 16-106
- s. 188.2 notice of suspension, 16-107

REVENUE CANADA

see CANADA REVENUE AGENCY

ROYAL CANADIAN MOUNTED POLICE

Tax Court security, 3-56

RULES COMMITTEE

composition, 3-146

fees and expenses, 3-102

power to make rules, 3-144

procedure when varying rules, 3-146

RULINGS, 17-35, 18-97

SANCTIONS

default/misconduct by person to be examined, 4-541

failure to appear, 4-671

failure to disclose or produce for inspection, 4-446

refusal to answer questions on discovery, 4-504

SCANDALOUS/FRIVOLOUS/VEXATIOUS,

4-188

SEAL OF THE COURT, 4-874

SECONDARY INTENTION, 4-649

SECURITY FOR COSTS

amount and form of security, 4-837

amount, variation of, 4-838

availability, 4-835

default of appellant, 4-838

effect of direction, 4-838

notice of compliance, 4-838

payment into/out of court, 4-838, 4-917

when application to be made, 4-837

SEIZURE/SALE, 4-867

SELF-REPRESENTED PARTY

see COSTS

SENDING AND RECEIPT OF ASSESSMENTS,

16-10.06

INDEX

- SERVICE**
address for, 4-103, 4-105
amended pleadings, of, 4-279
CPP appeals, 7-26.3
dispensing with, 4-103
EIA appeals, 8-59
ex juris, 4-108
fax, by, 4-105
GST appeals, 6-30.4 *et seq.*
mail, by, 4-105
notice of motion, of, 4-298
notice to attend (examinations out of court),
4-532
personal, 4-103
proof of, 4-107
rule, 4-103
substituted, 4-104
validating, 4-107
- SET-OFF**, 4-241
- SETTING ASIDE**
effect of non-compliance, 4-36
I.P., dismissal for non-appearance, 3-100
interlocutory judgment, 4-856.1
judgment against party who failed to appear,
4-671
judgments, accidental errors, 4-858
- SETTLEMENT**
see also CONSENT JUDGMENTS
compromise settlements, 16-5
conferences, Practice Note No. 21, D-23
costs on, 4-784
CRA administrative policy, 20-2
enforcement of, 3-49
privilege, 4-379
- SETTLEMENT CONFERENCE**, 4-571
- SHAM**, 17-107
see also WINDOW DRESSING
- SHERIFF**
see BAILIFFS
- SLIP RULE**, 4-858
- SOFTWOOD LUMBER PRODUCTS EXPORT
CHARGE ACT, 2006**, 11-23
- SOLICITOR**
see COUNSEL
- SOLICITOR-CLIENT COSTS**, 4-773
- SOLICITOR-CLIENT PRIVILEGE**, 4-387 *et seq.*
accounting records of a lawyer, 4-400.1
commission of crime/fraud exception, 4-401
facts still discoverable, 4-401
legal advice by Crown counsel, 4-402
onus, 4-404
third party communications, 4-405
waiver, 4-409
- STANDARD OF PROOF**
see BURDEN OF PROOF
- STANDING**, 4-263, 16-100.3
- STARE DECISIS**, 3-52, 3-52.5, 15-66, 17-110,
18-118.3
- STATUS HEARING**
delay, 4-565
failure to comply with order, 4-565
generally, 4-561
practice note, 4-563, D-10
proof of notice, 4-565
reply not filed, 4-565
taxation of costs, and, 4-825
teleconference/videoconference, by, 4-33
- STATUTORY INTERPRETATION**
see INTERPRETATION OF TAX STATUTES
- STAY OF PROCEEDINGS**, 4-68
s. 172, 4-865
- STRIKING OUT PLEADING OR OTHER
DOCUMENT**
abuse of process, 4-197
Federal Court of Appeal, discretionary
decisions, 15-26
general principles, 4-184
no evidence without leave, 4-201
no jurisdiction, 4-202
plain and obvious standard, 4-184.1
prejudice/delay fair hearing, 4-188
reassessment with taxpayer's consent, 4-240
rule, 4-181

INDEX

- STRIKING OUT PLEADING OR OTHER DOCUMENT *continued*
scandalous/frivolous/vexatious, 4-188
with or without leave to amend, 4-185
- SUBPOENA
calling witness on, 4-683
CPP appeals, 7-26.1
EIA appeal, 8-57
examination out of court, 4-532, 4-896
GST appeals, 6-42.1
Informal Procedure, 5-16.01
witness at trial, 4-676, 4-769
- SUBSTANCE VERSUS FORM, 17-110.1
- SUPERIOR COURT OF RECORD, 3-11
- SUPERNUMERARY JUDGES, 3-22
- T401 REPORTS, 17-112.1
- TAKING EVIDENCE BEFORE HEARING, 4-554
et seq.
- TARIFF OF FEES, 4-918 *et seq.*
- TAX APPEAL BOARD, 22-12 *et seq.*
- TAX AVOIDANCE, 18-118.3
- TAX COURT OF CANADA
abstract questions, 4-203
administration, 1-3, 3-148
appeal rights are statutory, 3-28
application, 3-64
apprehension of bias, 3-13
bound to act *ex necessitate*, 3-18
can raise jurisdiction on its own motion, 3-29
cannot acquire jurisdiction by consent, 3-29
case management, 3-30
Charter, 3-37
Chief Justice and Associate Chief Justice, 3-20
collateral matters, 3-38.4
 common law, civil law and equity, 3-38.4
 federal laws, 3-40
 provincial laws, 3-41
consideration of sections not pleaded, 3-42
constitutional questions require facts, 3-140.01
 notice of, 3-140.01
contempt of court, 3-52.7
court of competent jurisdiction (*Bill of Rights*), 3-37
court of competent jurisdiction (*Charter*), 3-38
court of competent jurisdiction (*Constitution*), 3-38.3, 3-140
Crown immunity and reciprocal tax agreements, 3-52
filing requirements, 3-84
function of on an appeal, 3-25
general procedure, *see* GENERAL PROCEDURE
hearing in different places, 3-56
hearings coordinators, 1-4
history
 years 1983-90, 22-19 *et seq.*
 years 1991 and after, 22-21
holidays, 3-57
immunity from civil action/absolute privilege, 3-19
in camera proceedings, 3-57
independence of judiciary, 3-19
implied jurisdiction over own process, 3-30
issues not raised in Notice of Objection, 3-45
judges, 1-1, 3-12
judicial administrator, 1-3
judicial comity, 3-46
jurisdiction, 3-22 *et seq.*
limits to jurisdiction, 3-45
 alternative dispute resolution, 4-218
 judicial comity, provincial superior courts, 3-48
 rectification orders, 4-240
 sovereignty, 4-247
oaths and affidavits, 3-137
original jurisdiction, 3-38.3
power to consider, authorities not cited by the parties 3-42
power to consider, issues or sections of the Act not pleaded, 3-42, 3-46
practice notes, *see* PRACTICE NOTES
preliminary ruling docket, D-26
principal office, 1-3
reciprocal tax agreements and Crown immunity, 3-52
regional offices, 1-5
registry, 1-4, 3-7
right to appear, 3-80, 3-65
rules committee, *see* RULES COMMITTEE
rules of evidence, 3-84

INDEX

TAX COURT OF CANADA *continued*

security, 3-56
settlement agreements
 enforcement, 3-49
sittings, 3-56, 3-148, D-38
stare decisis, 3-52
 obiter dicta, 3-52.5
statutory court, 3-25
superior court of record, 3-11
time limits, 3-57
transitional provisions, 3-149
when seized with a matter, 3-52

TAX DRIVEN PLANS, 17-112.2

TAX REVIEW BOARD

generally, 22-15 *et seq.*

TAXATION OF COSTS

ability to pay, 4-794
accountant's fees, 4-802
agent fees, 4-802
articling students, 4-803
cannot reconsider court's cost award, 4-794
cases, 4-792 *et seq.*
certificate of costs, 4-834, 4-916
child care, 4-803
class of proceedings, 4-794
computer research, 4-803
counsel fees, 4-822
courier fees/process servers, 4-804
directions to taxing officer, 4-780
document management technology, 4-805
exchange rate, 4-805
expert fees, 4-805
factors to consider, 4-792
fax, 4-810
first and second counsel fees, 4-828
GST, 4-811
hearing, preparation/conduct, 4-827
inability to pay costs, 4-794
interest, 4-811
interlocutory motions, 4-796
interpreters, 4-811
lost wages/revenue, 4-811
meals, 4-812
must be proved, 4-812
notice of appointment, 4-830, 4-914
notice to deliver bill of costs, 4-830, 4-915
of a party, 4-813

photocopying/printing/scanning/binding, 4-813
postage, 4-816
powers of taxing officer, 4-831
prior to notice of appeal, 4-797
reasonableness/necessity, 4-796
reference material, 4-816
review of taxation, 4-834
sales and consumption taxes, 4-833
separate/single costs, 4-798
status hearing, 4-826
tariff, 4-800, 4-801
taxing officer, 4-792, 4-831, 4-832
teleconference/videoconference, by, 4-33
telephone, 4-817
title searching fees, 4-803
transcripts, 4-817
travel costs/parking/mileage/taxis, 4-818
witness fees, 4-820

TAXPAYER BILL OF RIGHTS, 4-249, 21-67

TAXPAYER RELIEF PROVISIONS, 21-25
cases, 21-58.16

TAXPAYERS' OMBUDSMAN, 21-68

TECHNICAL INTERPRETATIONS/PRESS RELEASES, 18-80

TELECONFERENCE/VIDEOCONFERENCE
hearings by, 4-33

TELEPHONE CALLS, URGENT, D-13

TIME

adverse party as witness, 4-714
answer, 4-111
clear days, B-20
computation, 4-45
costs
 directions to taxing officer, 4-780
 notice of appointment for taxation of costs,
 4-830
 notice to deliver bill of costs, 4-830, 4-916
 review of taxation, 4-834
CPP appeals
 calculation of time, 7-26.4
 commencement of appeal, 7-16
 intervention, 7-21
 notice of hearing, 7-26

INDEX

- TIME *continued*
 - reply, 7-22
 - discovery of documents
 - list of documents (partial disclosure), 4-335
 - notice to produce, responding to, 4-332
 - EIA appeals
 - appeal to TCC, 8-34
 - calculation of time, 8-60
 - commencement of appeal, 8-46.3
 - intervention, 8-51
 - notice of hearing, 8-57
 - reply, 8-52.1
 - examination for discovery
 - effect of refusal to answer, 4-504
 - use of, at hearing (practice note), 4-515
 - examinations out of court, 4-530
 - expert evidence at trial, 4-700
 - GST appeals
 - appeal to Tax Court, 6-23
 - election to have I.P. apply, 6-40.1
 - expert witnesses, 6-35
 - extension of time, 6-40.2, 6-53
 - reply, 6-35
 - review of costs, 6-40
 - hearing in absence of opposite party, 4-47
 - holiday/Saturday, B-26
 - Informal Procedure
 - election to have I.P. apply, 5-13
 - expert witness, 5-8
 - extension of time, 5-13, 5-14
 - reply, 5-7
 - review of taxation, 5-11
 - Interpretation Act* (annotations), B-18, B-19, B-20, B-20.1
 - listing for hearing
 - practice note, 4-563
 - setting down appeal, 4-561
 - motions
 - affidavit in opposition, 4-305
 - service of notice, 4-300
 - written representations, 4-306
 - reconsideration of judgment, 4-845
 - reply, 4-111
 - responding to amended pleading, 4-280
 - set aside judgment (failure to appear), 4-671
 - set aside judgment (interlocutory), 4-856.1
 - status hearing, 4-561
 - taxation of costs, review, 4-834
 - written discovery
 - answers, 4-551
 - further questions, 4-551
- TRANSCRIPTS
 - discovery of non-parties, 4-509
 - examinations out of court
 - certification, 4-530
 - evidence taken before hearing, 4-554
 - filing, 4-545
 - outside Canada, 4-548
 - TRANSLATOR
 - Practice Notes, D-17, D-31
 - rule 102, 4-530
 - TRAVERSE
 - see* PLEADINGS
 - TREATIES
 - Income Tax Conventions Interpretation Act*, C-1 *et seq.*
 - interpretation of tax statutes, 18-121
 - TRIAL
 - see* HEARING
 - TRIAL DATE, 4-559
 - TRIAL MANAGEMENT CONFERENCE, 4-569
 - TRUSTEES IN BANKRUPTCY
 - appeals brought by, examinations of bankrupt, 4-453
 - TRUSTS, 17-112.4.2
 - UNDUE HARDSHIP, 16-39
 - URGENT TELEPHONE CALLS, D-13
 - VAGUENESS, 18-63
 - VALUATION, 17-68
 - VETERANS APPEALS, 11-21
 - VEXATIOUS PROCEEDINGS, 3-137
 - costs in, 4-791, 6-40.1
 - TCCA, s. 19.1, 3-137

INDEX

- VIDEO CONFERENCE, *see also*
TELECONFERENCE/VIDEOCONFERENCE,
4-698
evidence, 4-698
- VIDEOTAPING
evidence taken before hearing, 4-559
examinations out of court, 4-541
- VIEW BY JUDGE, 4-662
- VIRTUAL AND HYBRID PROCEEDING
GUIDE, E-1
- VOLUNTARY DISCLOSURE, 14-60
- WAIVER
burden of proof, 4-651
cases, 16-30.7
privilege, of, 4-409
right of appeal, of, 16-100.3
- WANT OF PROSECUTION, 4-296 *et seq.*
- WAR VETERANS ALLOWANCE ACT APPEALS,
11-21
- WARRANT FOR ARREST (DEFAULTING
WITNESS), 4-676, 4-912
- WHITE PAPERS, 18-68.6
- WILFUL BLINDNESS, 17-114
- WINDOW DRESSING, 17-117
- WITHHOLDING, 16-38.2.2
- WITHOUT PREJUDICE CORRESPONDENCE,
4-379
- WITNESS FEES AND EXPENSES
adverse party as witness, 4-714
examinations out of court, non-parties, 4-532
examinations outside Canada, 4-530
GST appeals, 6-38
Informal Procedure, 5-10.6
payment with service of subpoena, 4-676
tariff, 4-730, 4-874
taxation of costs, and, 4-820
- WITNESSES
absence, 4-671
adverse, A-11 *et seq.*
adverse party as, 4-714
communication with lawyer, 4-691
compelling attendance, 4-676, 4-684
conduct money, *see* WITNESS FEES AND
EXPENSES
control of mode of interrogation, 4-699
cross-examination, 4-688
custody, in, 4-684, 4-911
direct examination, 4-688
evidence, 4-687
examination before trial, 4-554
examination of, at hearing, 4-688
examination out of court, rules, application,
4-530
exclusion of, 4-586
expert, *see* EXPERT WITNESS, EXPERTS
failure to attend, warrant for arrest, 4-676
hostile, 4-688
immunity, 4-698
intervention by court, 4-694
justifying absence of, 4-671
leading questions, 4-700.2
list not required, 4-697
power of court to recall, 4-700.1
re-examination, 4-688
refreshing memory of, 17-106.01
rights of, 4-698
subpoena, 4-676, 4-683 *see also* SUBPOENA
taxation of costs, and, 4-820
videoconference evidence, 4-698
warrant, 4-676
with expertise, 4-704
- WORKING PAPERS (audit), 17-121
- WRIT OF SEIZURE AND SALE, 4-867
- WRITTEN INTERROGATORIES, 4-550 *et seq.*,
4-902, 4-903