

Index

(updated to Rel. 2025-2)

- ABORIGINAL PEOPLES
 - burden of proof, rights, 4-609
 - Charter*, rights and freedoms under
 - s. 25, 19-58.2
 - 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 also* CONSOLIDATION; INTERVENTION; SERVICE
 - generally, 4-96
 - 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
- ADMISSIONS
 - amendments, 4-277
 - authenticity, defined, 4-574
 - authority of A-G to admit facts, 4-575
 - cases, 17-6.4
 - generally, 17-6.2
 - judgments on admissions
 - Excise Act*, 2001 appeals, 10-23
 - general procedure rules, 4-854.1
 - Part V.1 *Customs Act* appeals, 9-24
 - 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, initialing, 4-57
 - cases, 17-6.9
 - contents of, 4-313
 - 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
 - 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
- AGENCY, 17-6.10

INDEX

- 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
case law, 11-4
decisions, 3-134
jurisdiction, 11-3
- 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, PAYMENTS AND APPEALS
- 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
flow chart, 3-5
history of, 22-1 *et seq.*
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
under *ETA* by reporting period, 16-4.7
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
time to assess, 16-10.05
transferee of property and derivative assessments, 4-264
validity, presumption of, 16-10.01, 16-34

INDEX

- 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, 17-12.3
- 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 exclusively or peculiarly within Minister's knowledge, 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
 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.*
 employee or independent contractor, 4-625
 non-arm's length transfer assessments and, 4-621
 EIA appeals, 4-650, 8-11
 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
 appeal from, 4-653
 failure to file or remit, 4-641
 generally, 4-641
 gross negligence, 4-641, 16-69
 prima facie case, 4-606
 quashing late appeal, 4-649
 secondary intention, 4-649
 sham, 4-650

INDEX

- BURDEN OF PROOF** *continued*
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 DISABILITY BENEFIT ACT APPEALS**, 11-27
- 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
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-60.2
summaries, A-60.3
s. 31 definitions, A-60.8.3

INDEX

CANADA EVIDENCE ACT (ANNOTATIONS TO) *continued*

- 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-60.11
- s. 37.3 protection of rights, A-60.12
- 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

- appeal to FCA, 7-7
- appeal to TCC, 7-4, 7-8
- application of rules, 7-16
- associate judges, 7-17
- authority to decide questions, 7-13
- calculation of time, 7-31
- consent judgment, 7-24
- consolidation of appeals, 7-22
- consolidation of interventions, 7-22
- contempt of court, 7-32
- costs in vexatious proceedings, 7-34
- definitions, 7-15
- determination of questions, 7-13
- discovery, 7-26
- disposition of appeals, 7-24
- electronic filing, 7-18

INDEX

- CANADA PENSION PLAN APPEALS continued*
employee or employer contributions, 7-3, 7-9, 7-15
employer/employee relationship, 7-12
evidence, 7-29
expert witness, 7-7, 7-28, 7-29
extension of time, applications, 7-11, 7-19, 7-37
filing
 date of, 7-18
 extension of time, applications, 7-11, 7-19, 7-37
 form, 7-35
 other documents, 7-18
forms, 7-35
hearing, 7-27
Informal Procedure, guide, 7-3
interventions, 7-21
 consolidation of, 7-22
 notice of intervention, form, 7-39
ITA appeal, source deductions, 7-10
judgments
 consent judgment, 7-24
 pronouncing and entering, 7-26
jurisdiction, 7-11
no cost award, 7-13
notice of appeal, 7-17
 filing, 7-17
 filing date, 7-18
 filing extension application, 7-11, 7-19, 7-37
 form, 7-35
notice of intervention, form, 7-39
overview, 7-1
preparation for appeal, 7-20
procedural guide, 7-3
reply, 7-22
s. 36 of *CPP* decisions, 7-14
self-employed persons, contributions by, 7-8, 7-14, 7-30
service of documents, 7-30
source deductions, 7-10
statutory provisions, 7-9
subpoena, 7-28
TCC rules of procedure, 7-15
time, calculation, 7-31
vexatious proceedings, costs, 7-34
- 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/video conference, 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

INDEX

CHARTER (ANNOTATIONS TO) continued

- s. 6 mobility rights, 19-17
- s. 7 life, liberty and security of person, 19-19
 - abuse of process, 19-20.3
 - audit or investigation, 19-20.03
 - corporations, 19-20.4
 - economic interests, 19-21
 - penalties, 19-24
 - principles of fundamental justice, 19-20
 - 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
 - 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-incrimination, 19-33
 - right against self-incrimination, 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, 19-58.2
- s. 26 other rights and freedoms, 19-58.3
- s. 27 multicultural heritage, 19-58.3
- s. 28 rights guaranteed equally to both sexes, 19-58.3
- s. 29 rights respecting certain schools preserved, 19-58.3
- s. 30 application to Territories, 19-59
- s. 31 legislative powers not extended, 19-59

INDEX

CHARTER (ANNOTATIONS TO) *continued*

- 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.*

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, 11-9

CLEAR DAYS, B-20

COLLATERAL MATTERS, 3-38.2

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/VIDEO-CON- FERENCE, 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/video conference, 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
- remedying 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, 7-24
- EIA* appeals, 8-38
- 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, 7-22
- EIA* appeals, 8-36, 8-37
- General Procedure, 4-66

INDEX

- CONSTITUTIONAL QUESTIONS, 3-140.01
court of competent jurisdiction—constitutional grounds, 3-38.1
GST, constitutionality of, 6-2
GST not unconstitutional, 3-143
income tax not unconstitutional, 3-141
notice of, 3-140.01, 4-289
- CONTEMPT OF COURT
cases, 3-53, 4-871
CPP appeals, 7-32
disclosure, in camera hearings, 4-585
EIA appeals, 8-49
Excise Act 2001 appeals, 10-26
general procedure rules, 4-869
GST appeals, 6-29
Informal Procedure rules, 5-31
Part V.1 Customs Act appeals, 9-17, 9-26
- CONTRACT OF SERVICE OR CONTRACT FOR SERVICES, 8-19
civil law, 8-19
common law, 8-21
- CONTRACTOR
dependent contractor, 8-26
employee vs. independent contractor, 8-21
burden of proof, director's liability, 4-625
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 (installments), 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
to or against, 4-735
paid out of which fund, 3-63
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, 4-752
costs for costs submissions, 4-728
CPP appeals, 7-34
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
EIA appeals, 8-12, 8-51
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
Excise Act 2001 appeals, 10-19, 10-30
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, 6-19, 6-23
improper/negligent step, 4-759
Informal Procedure, 3-106, 3-109, 5-38
inherent jurisdiction to award, 4-727
interim/advance, 4-723
interlocutory motions, 4-796
issue complexity, 4-751
issues, amounts/importance of, 4-737, 4-740
liability of counsel, 4-787
lump sum award, 4-767
motions, on, 4-308, 4-734
Ontario's rule application, 4-766
Part V.1 Customs Act appeals, 9-17, 9-20, 9-31
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

INDEX

COSTS *continued*

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, on, 4-763, 4-784
settlement offers, 4-742, 4-763, 4-766
settlement offers and timing requirement rule, 4-763
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, 4-771
vexatious proceedings, in, 4-791
 CPP appeals, 7-34
 EIA appeals, 8-51
 Excise Act 2001 appeals, 10-19
 GST appeals, 6-23
 Informal Procedure rules, 5-23
 Part V.1 *Customs Act* appeals, 9-20
volume of work, 4-749
written settlement offers, 4-742

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
examination for discovery, effect of answering, 4-505
gowning, D-3
lien, 4-96
of record, 4-91
removal of, 4-91, 4-97, 4-98
representation by, 4-81
responsibilities of at hearing, 4-661
right to appear, 3-65
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

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

INDEX

- 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**, 11.1-1
case law, 11.1-2
jurisdiction, 11.1-1
- DAMAGES**, 4-223
- 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, 4-290
cases, 4-290 *et seq.*
failure to appear, 4-671
- DEFINITIONS**, 18-27
CPP appeals, 7-15
dictionary definitions, 18-76
EIA appeals, 8-29
Excise Act, 2001 appeals, 10-22
General Procedure rules, 4-9 *et seq.*
GST appeals, 6-13
Informal Procedure rules, 5-9
Interpretation Act (Annotations to), B-3, B-23
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**, 3-19
- DETERMINATION OF QUESTION**. *See* **QUESTIONS, DETERMINATION OF**
- DICTIONARY DEFINITIONS**, 18-76
- DIGITAL SERVICES TAX ACT APPEALS**, 11-25
- 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/abridgment, 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
- DISABILITY TAX CREDIT PROMOTERS RESTRICTIONS ACT APPEALS**, 11-15
- DISBURSEMENTS**, 4-802 *et seq.* *See also* **TAXATION OF COSTS**
- DISCONTINUANCE**
costs, 4-784
Excise Act 2001 appeals, 10-16, 10-20, 10-29
GST appeals, 6-18

INDEX

- DISCONTINUANCE *continued*
Informal Procedure, 5-16, 5-35
ITA s. 169(3), 3-62
Part V.1 *Customs Act* appeals, 9-16, 9-30
TCCA, 3-62
- DISCOVERY. *See also* DISCOVERY OF DOCUMENTS; EXAMINATION FOR DISCOVERY
CPP appeals, 7-26
EIA appeals, 8-41
TCCA provision, 3-69
- DISCOVERY OF DOCUMENTS
affidavit incomplete, 4-437
affidavit of documents. *See* LIST OF DOCUMENTS
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
 informer 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-client privilege, 4-387 *et seq.*
 solicitor's obligation, 4-350
 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; PENALTIES; RETURNS, ASSESSMENTS, PAYMENTS AND APPEALS
- EIA* APPEALS. *See* EMPLOYMENT INSURANCE ACT APPEALS
- EJUSDEM GENERIS*, 18-60.4
- ELECTIONS
GST appeals, proposal limiting amount in issue, 6-24
Informal Procedure
 limit amounts in issue, 5-40, 5-41
 to have Informal Procedure apply, 5-7, 5-39
jurisdiction, lack of, 4-226
- ELECTRONIC DOCUMENTS, 4-348, 17-30
- EMPLOYEE OR EMPLOYER
contributions by, appeals related to
CPP appeals, 7-3, 7-9, 7-15
EIA appeals, 8-7

INDEX

EMPLOYEE VS. INDEPENDENT
CONTRACTOR. *See* INDEPENDENT
CONTRACTOR VS. EMPLOYEE

EMPLOYMENT INSURANCE ACT APPEALS

abuse of process, costs due to, 8-12
application of rules, 8-30
associate judges, 8-30
authority to decide questions, 8-27, 8-28
burden of proof, 4-650, 8-11
calculation of time, 8-47
consent judgments, 8-38
consolidation of appeals, 8-36
consolidation of interventions, 8-37
contempt of court, 8-49
contract of service or contract for services, 8-19
 civil law, 8-19
 common law, 8-21
costs
 abuse of process, 8-12
 vexatious proceedings, 8-51
definitions, 8-29
dependent contractor, 8-26
discovery, 8-41
disposition of appeals, 8-39
electronic filing, 8-32
employee or employer contributions, 8-7
 abuse of process, costs due to, 8-12
 burden of proof, 8-11
 extension of time to appeal, 8-10
 Informal Procedure, 8-8
 jurisdiction, 8-9
 right to appeal, 8-8
employee vs. independent contractor, 8-21
evidence, 8-45
extension of time, 8-10, 8-33, 8-53, 8-54
filing other documents, 8-32
forms, 8-52
hearing, 8-43
Informal Procedure, 8-8
insurable employment category, regulations
 expanding, 8-27
intervention, 8-35
 consolidation of, 8-37
 notice of intervention, form, 8-54
judgments, pronouncing and entering of, 8-41
jurisdiction, 8-9
nature of insurable employment appeal, 8-13
 arm's length dealing under 5(3)(b), 8-15
 contract of service appeal 5(1)(a), 8-13

 control more than 40% voting shares under
 5(2)(b), 8-15
notice of appeal, 8-30, 8-52
 date of, 8-32
 extension of time to appeal, 8-10, 8-33, 8-53,
 8-54
 filing date of, 8-32
 form, 8-52
objection and review, 8-7
overview, 8-1
Part IV and VII appeals, guide to, 8-3
Part VII.1, assessments of contributions on
 self-employed person earnings, 8-13
placement agencies, 8-26
preparation for appeal, 8-34
procedural guide, 8-3
reasons for decision, 8-27
reply, 8-37
right to appeal, 8-8
self-employed persons, assessments of
 contributions on Part VII.1, 8-13
 contract of service appeal, para. 5(1)(a), 8-13
 contract of service or contract for services,
 8-19
 control of more than 40% of voting shares,
 para. 5(2)(b), 8-15
service of documents, 8-46
subpoena, 8-44
TCC rules of procedure, 8-29
time, calculation of, 8-47
types of appeals
 employee or employer contributions, 8-7
 self-employed persons, assessments of
 contributions on Part VII.1, 8-13
vexatious proceedings, costs, 8-51

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

INDEX

ESTOPPEL *continued*
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, 7-29

EIA appeals, 8-45

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

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

INDEX

- EVIDENCE IN TAX APPEALS (CASES). *See also*
under PLEADINGS *continued*
- generally, 17-28.2.10
 - joint book of, 4-686
 - or credible oral evidence, 17-28.2.10
 - in possession, 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
 - 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
 - reasonable expectation of profit (REOP), 17-71
 - religion, 17-74.2.3
 - 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
 - valuation and 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

INDEX

- EVIDENCE IN TAX APPEALS (CASES). *See also*
under PLEADINGS continued
- 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
- 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
- privileged 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
- res judicata*, 17-106.3, 17-106.4, 17-106.6
- rescission, 17-106.3
- 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

INDEX

- EVIDENCE IN TAX APPEALS (CASES). *See also* under PLEADINGS *continued*
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
corporation, 4-457
counsel answering, effect of, 4-505
cross-examination, 4-496
Crown, 4-457, 4-529
before delivering reply, 4-462
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, 4-365, 4-454
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, employer, 4-501
multiple examinations, 4-453
non-parties, 4-509
objections to questions, 4-462, 4-489
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, 4-471
relevant to pleadings, 4-471
scope of examination, 4-462 *et seq.*
before seeking particulars, 4-462
third party information, 4-494
undertakings, 4-499
use of, at hearing, 4-515, D-12
use of, person unable to attend hearing, 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, 4-533, 4-898
oath/affidavit, 4-530
objections and rulings, 4-536.1
official languages, 4-530
outside Canada, 4-546, 4-898 *et seq.*
re-examination, 4-536
reporter, 4-530
sanctions for default or misconduct, 4-541
subpoena, 4-532, 4-897

INDEX

- EXAMINATIONS OUT OF COURT *continued*
transcript, 4-530, 4-541, 4-545
videotaping, 4-541
- EXCHEQUER COURT, 22-4 *et seq.*, 22-12 *et seq.*
- EXCISE ACT, 2001 APPEALS, 10-1. *See also*
GOODS AND SERVICES TAX APPEALS
admissions, judgments on, 10-23
appellant's address for service of documents,
10-14
application of rules, 10-11
associate judges, 10-12
contempt of court, 10-26
costs
bill of costs, form, 10-30
vexatious proceedings, 10-19
definitions, 10-11
discontinuance, 10-16
discontinuance, notice of, 10-20, 10-29
documentary evidence, judgments on, 10-23
electronic filing, 10-13
expert witness, 10-15
filing other documents, 10-13
forms, 10-28
General Procedure guide, 10-4
Informal Procedure
election for application of, form, 10-31
guide, 10-6
judgments
admissions or documentary evidence, 10-23
limit, 3-117
pronouncing and entering, 10-16
jurisdiction, 10-1
notice of appeal, 10-12, 10-33
date of, 10-13
electronic filing, 10-13
filing extension application, form, 10-33
form, 10-28
reply, 10-14
notice of discontinuance, 10-20, 10-29
notice of objection, extension of time for filing,
10-20, 10-32
overview, 10-1
procedural guide, 10-4
removal of appeal, 10-20, 10-29
reply to, 10-14
service of documents, appellant's address for,
10-14
subpoena, 10-24
TCC rules of procedure, 10-11
vexatious proceedings, costs, 10-19
- EXCISE TAX ACT
judgments, limit, 3-118
Part IX, 3-9, 3-112, 3-115, 3-118, 3-126, 4-30, 6-1,
6-13, 21-1
s. 123, 3-10
s. 133, 3-10
s. 134, 3-10
s. 166.2, 6-26, 6-27
s. 167, 6-26, 6-27
s. 281.1, 21-11 to 21-14
s. 295, 4-357
s. 298(3), 4-265
s. 298(6.1), 4-265
s. 298(6.2), 4-265
s. 298(6.3), 4-265
s. 300(2), 4-65
s. 301(1), 4-29
s. 301(4), 3-117
s. 302, 3-64, 3-117
s. 306, 3-68, 3-117
s. 308, 3-75, 3-116, 3-119
s. 308(1), 3-116
s. 309, 20-2
s. 310, 3-124, 3-134, 4-27, 4-66
s. 310(1), 4-21
s. 310(2), 4-21
s. 311, 3-64, 3-134, 3-136, 4-22, 4-23, 4-27, 4-66,
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. 327(4), 3-98, 3-99
s. 333 through s. 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, 4-752.2, 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

INDEX

- 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
Excise Act 2001 appeals, 10-15
GST appeals, 6-18
Part V.1 *Customs Act* appeals, 9-16
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
code of conduct, 4-912, 4-925
 failure to comply, 4-710
code of conduct certificate, 4-912
CPP appeals, 7-7, 7-28, 7-29
evidence at hearing, 4-701
examination for discovery, 4-462, 4-502.2
fees and expenses
 disbursement, as, 4-805
 tariff, 4-918
Informal Procedure, 5-14
limit of five, 4-711
limit of five, 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
consent, 4-111
costs, 4-785
CPP appeals, 7-11, 7-19, 7-37
EIA appeals, 8-10, 8-33, 8-53, 8-54
General Procedure, 4-46
GST appeals, 6-24
Informal Procedure
 application for, 5-25, 5-43
 form, 5-43
 instituting appeal, 5-1, 5-45
 request for assessment, 5-44
- 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**
filing of documents, 4-56
service, 4-105
taxation of costs, and, 4-810
- 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, 15-14
appeals from decisions re charities, 15-19 *et seq.*
appeals from General Procedure, 4-80
 appeal from mid-trial ruling, 15-12

INDEX

FEDERAL COURT OF APPEAL *continued*

- extensions of time, 15-17
- final or interlocutory orders, 15-10
 - what is subject to appeal, 15-8
- appeals from Informal Procedure, 15-14
 - no appeal of, 15-15
- appeals of mid-trial ruling, 15-12
- 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, 15-10
- fresh evidence on appeal, 15-51
- general principles, 15-24
- grounds of appeal for Informal Procedure judgments, 15-15
- insufficiency of reasons, 15-55
- interventions, 15-57
- jurisdiction, 15-58
- mootness, 15-58
- no appeal from interlocutory rulings, 15-15
- pronouncement of judgment, 15-16.1
- 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 OR INTERLOCUTORY ORDERS, 15-10

FINANCIAL ADMINISTRATION ACT, 4-230.1, 21-2 *et seq.*

FINANCIAL STATEMENTS, 17-76

FOREIGN AUTHORITIES

- jurisprudence of other jurisdictions, 18-102.2.1.
 - See also* EXPERT EVIDENCE; FOREIGN LAW

FOREIGN LAW

- experts, evidence of, 17-72, 17-76.1
- proving, 17-76.1

FORMS

- CPP* appeals, 7-35
- EIA* appeals, 8-52
- Excise Act 2001* appeals, 10-28
- General Procedure, 4-876 *et seq.*
- Informal Procedure, 5-35
- Part V.1 *Customs Act* appeals, 9-29

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

INDEX

- FRESH STEP, 4-37
- FRIVOLOUS AND VEXATIOUS, 4-181
- FUNCTUS OFFICIO*, 4-846
- GARNISHMENT, 4-867
- GENERAL ANTI-AVOIDANCE RULE (GAAR)
 - appeals, complexity of issues, 4-751
 - 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, generally, 3-118
 - costs to Crown, 3-71
 - discovery, 3-69
 - Excise Act 2001* appeals, 10-4
 - fees paid to Receiver General, 3-73
 - GST appeals, 6-5
 - judgment to be mailed, 3-71
 - order by Court to apply, 3-76, 3-78, 3-118, 3-121
 - originating document, 3-67
 - Part V.1 *Customs Act* appeals, 9-5
 - proceeding instituted, 3-67
 - right to appear, 3-65
 - rules. *See* GENERAL PROCEDURE RULES
 - TCCA* provision, 3-63 *et seq.*
 - time for request, 3-118
 - 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
 - attacking irregularity 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, 4-290 *et seq.*
 - definitions, 4-9 *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/video conference, 4-33
 - improper conduct of written examination, 4-553
 - information subsequently obtained, 4-506
 - 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

INDEX

GENERAL PROCEDURE RULES *continued*

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, 4-68.1
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.*
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.*

GLOBAL MINIMUM TAX ACT APPEALS, 11-21

determination of question, 3-133, 3-134

GOODS AND SERVICES TAX APPEALS

amount in dispute (interest accruing), 3-132
amount in issue, election limiting (proposal),
 6-24
application, 6-14
associate judges, 6-14
burden of proof, 4-652
constitutionality of GST, 3-143, 6-2
contempt of court, 6-29
costs, 6-19
 TCCA provisions, 3-118, 3-126, 3-128, 3-129
 vexatious proceedings, 6-23
definitions, 6-13

discontinuance, 6-18
election limiting amounts in issue (proposal),
 6-24
electronic filing, 6-16
Excise Tax Act
 Part IX, 6-1, 6-13
 practice and procedure rules, 6-13
expert witness, 6-18
extension of time, application, 6-24
filing of other documents, 6-15
General Procedure
 application, 3-83
 guide to, 6-5
 overview, 4-9 *et seq.*
Informal Procedure, guide, 6-8
judgments
 admissions or certain documentary evidence,
 6-28
 pronouncing and entering of, 6-19
jurisdiction, 6-1
notice of appeal, 6-14
 extension of time, application, 6-24
 filing date, 6-15
 reply, 6-17
 reply time limits, 3-123, 3-125
overview, 6-1
procedural guide, 6-5
reply, 6-17
subpoena, 6-28
TCC rules of practice and procedure, 6-13
 proposed amendments and additions, 6-24
TCCA provisions, 3-81 *et seq.*
time limits
 hearing, 3-125
 reply, 3-123, 3-125
vexatious proceedings, costs, 6-23

GOWNING, D-3

GREENHOUSE GAS POLLUTION PRICING ACT APPEALS, 11-13

GROSS NEGLIGENCE

defined under s. 163(2), 16-62.10
penalties
 burden of proof, 4-641
 pleading, other material facts, 4-156
 wilful blindness, 17-114
reply, 4-150, 4-156

INDEX

- 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
- 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
in camera, 3-58, 4-585, 4-588, 16-103
 compelling attendance, 4-676
CPP appeals, 7-27
EIA appeals, 8-43
 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
 interpreters, 4-687
 intervention by judge, 4-593, 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/video conference, 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, 3-58, 4-585, 4-588, 16-103. *See also* CONFIDENTIALITY
- INCOME TAX ACT*
 appeals under. *See* INFORMAL PROCEDURE RULES
 overview, 5-1
 s. 18.16(1), 4-63
 s. 67.5(2), 16-2.5
 s. 84(2), 18-21
 s. 85(1), 4-226
 s. 104(6), 3-38.3
 s. 110.1, 11.1-1
 s. 118.1, 11.1.-1
 s. 118.1(10.4), 4-10

INDEX

INCOME TAX ACT continued

- s. 122.5, 16-52.3
- s. 150, 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, 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, 16-2.1
- s. 152(1.2), 4-25
- s. 152(1.8), 16-2.5
- s. 152(1.11), 16-2.1
- s. 152(2), 4-27, 16-2.1
- s. 152(3), 4-26
- s. 152(3.1), 16-2.2
- 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), 4-240, 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), 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, 5-26
- 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(1.2), 16-2.6
- 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(2), 16-2.5
- s. 165(2.1), 16-2.5
- s. 165(3), 4-27, 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. 166.1(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, 16-2.9
- s. 167(5), 4-11, 16-2.9
- s. 169, 3-68, 3-74, 3-82, 4-9, 4-26, 4-27, 5-1, 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
- s. 171, 4-9
- s. 173, 3-24, 3-133, 4-9, 4-10, 4-27, 4-66, 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, 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. 222(2), 4-217
- s. 231.1, 14-56.4
- s. 231.2, 14-56.4
- s. 231.7, 14-56.4
- s. 239(4), 3-98
- s. 241, 4-357
- s. 241(4), 4-360
- s. 244, 4-107, 16-12, 16-107, 17-102, 17-102.6
- s. 244(6.1), 17-102.03

INDEX

- INCOME TAX ACT continued*
s. 244(14.1), 17-102.07
s. 245(6), 16-2.1
s. 245(8), 16-2.5
s. 247(10), 3-30, 14-72
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
- INCOMPLETE TRANSACTIONS, 17-80.1
- INCONSISTENT ASSESSMENTS. *See* ASSESSMENT
- INCREASE TAX. *See* ASSESSMENT
- INDEMNITY
counsel, client, costs, 4-787
- INDEPENDENT CONTRACTOR VS.
EMPLOYEE, 8-21
burden of proof, director's liability, 4-625
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
CPP appeals, 7-3
EIA appeals, 8-8
Excise Act 2001 appeals, 10-6
expeditious hearing, 3-92
failure to appear, 3-100
filing requirements, 3-84
GST appeals, 6-8
inconsistent provisions, 3-11.4.2
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
Part V.1 *Customs Act* appeals, 9-7
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
applicant's address for service of documents,
5-13
application, 5-10
associate judges, 5-11
contempt of court, 5-31, *et seq.*
costs, 5-17
bill of costs, 5-8, 5-22, 5-35, 5-38
security for costs, 4-835 *et seq.*
definitions, 5-9
discontinuance, 5-16, 5-37
elections
to have Informal Procedure apply, 5-7, 5-39
to limit appeal to Informal Procedure, 5-24
limiting amounts in issue, 5-40, 5-41

INDEX

INFORMAL PROCEDURE RULES *continued*

electronic filing, 5-12
expert witnesses, 5-14
extension of time, 5-25
 form, 5-43
 instituting appeal, 5-1, 5-45
 notice of objection, 5-25
 request for assessment, 5-44
filing of other documents, 5-12
forms, 5-35
instituting appeal, 5-1, 5-45
ITA, appeals under, 5-1
judgments, pronouncing and entering, 5-16
jurisdiction, 5-1
notice of appeal, 5-11
 extension of time, 5-25, 5-43
 filing date, 5-12
 form, 5-35
 late reply, 5-14
 reply, 5-13
notice of objection, 5-25
Petroleum and Gas Revenue Tax Act, appeals under, 5-1
procedural guide, 5-5
removal of appeal, 5-23
reply to notice of appeal, 5-13
reply to notice of appeal, late reply, 5-14
service of documents, applicant's address for, 5-13
subpoena, 5-29
suspension period, application for postponement of, 5-28, 5-47
vexatious proceedings, costs, 5-23

INFORMATION CIRCULARS

IC 92-2, 21-7 *et seq.*

INFORMER PRIVILEGE, 4-366

INSPECTION

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

INSTALLMENTS

amounts deemed paid as, 16-57
interest on, 16-56

none required, 16-43
penalties, 16-72

INSTITUTION OF PROCEEDINGS

General Procedure, 4-59 *et seq.*
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

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 or interlocutory, 15-10
list of applications, 4-298 *et seq.*
taxation of costs, 4-796

INTERLOCUTORY DECISIONS, 15-10

limited informal procedure appeals, 15-14
no appeal of, 15-15
no appeal of informal procedure interlocutory decisions, 15-15
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

INDEX

INTERPRETATION ACT (ANNOTATIONS TO)

continued

- 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
- 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

INDEX

- INTERPRETATION OF TAX STATUTES. *See also* INTERPRETATION ACT
(ANNOTATIONS TO) *continued*
- “expense”, 18-140
 - “fair market value”, 18-140.1
 - fairness, 18-39
 - general vs. specific provisions, 18-41
 - generalia specialibus non derogant*, 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
 - 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

INDEX

- INTERPRETATION OF TAX STATUTES. *See also* INTERPRETATION ACT
(ANNOTATIONS TO) *continued*
- 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
 - 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
- cases, 4-71
 - by court from witness, 4-694
 - CPP* appeals, 7-21
 - EIA* appeals, 8-35, 8-37, 8-54
 - Federal Court of Appeal, 15-57
 - General Procedure, 4-71
 - notice of intervention, form, 7-39
- INVESTIGATION PRIVILEGE, 4-369
- IRREGULARITIES, 16-88.7. *See also* NON-COMPLIANCE WITH RULES
- ISSUE ESTOPPEL, 17-37
- JOINDER, 4-64. *See also* CONSOLIDATION

INDEX

- 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, 3-19
independence of judiciary, 3-19
interventions by, 4-593, 4-694
judgment after cessation of office, 3-57
oath of office, 3-19
objections to questions and rulings, 4-700.1
power to recall witnesses, 4-700.1
prothonotaries, 3-22
rank/precedence, 3-20
residence, 3-18
seized, 4-593
supernumerary, 3-20
TCC, in, 1-1, 3-12
tenure, 3-21
- JUDGMENT
admissions
 Excise Act, 2001 appeals, 10-23
 general procedure rules, 4-854.1
 Part V.1 *Customs Act* appeals, 9-24
adverse party refuses to testify, 4-714
consent, 4-849. *See also* CONSENT
- JUDGMENTS
CPP appeals, pronouncing and entering, 7-26
delay by appellant, 4-296 *et seq.*
draft, 4-848.1
EIA appeals, 8-41
enforcement, 4-867
Excise Act 2001 appeals, 10-16, 10-23
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, 4-842
 rendering/issuing order, 4-840
 signing/pronouncement, 4-841
 mailing of, 3-71
Part V.1 *Customs Act* appeals, 9-17, 9-24
question of law, 4-281
reasons, 4-842
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

INDEX

- JUDICIAL REVIEW *continued*
- 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
 - 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
- Air Travellers Security Charge Act*, 11-3
 - alternative dispute resolution, 4-218
 - amended return, 4-218
 - bankruptcy, 4-219
 - Canada Disability Benefit Act* appeals, 11-27
 - cases, 3-25 *et seq.*
 - CPP* appeals, 7-11
 - cultural property, 11.1-1
 - Cultural Property Export and Import Act* appeals, 11.1-1
 - Digital Services Tax Act* appeals, 11-25
 - Disability Tax Credit Promoters Restrictions Act* appeals, 11-15
 - EIA* appeals, 8-9
 - Excise Tax Act, 2001* appeals, 10-1
 - FCTD, 14-1, 14-2
 - generally, 22-21, 22-22
 - Global Minimum Tax Act* appeals, 11-21
 - Greenhouse Gas Pollution Pricing Act* appeals, 11-13
 - GST appeals, 6-1
 - Informal Procedure rules, 5-1
 - OAS* appeals, 11-5
 - Part V.1 *Customs Act* appeals, 9-1
 - pleading, 4-164
 - Select Luxury Items Tax Act* appeals, 11-19
 - Softwood Lumber Products Export Charge Act, 2006* appeals, 11-11
 - TCCA* provisions, 3-21 *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, 3-38.2
 - 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.*
 - statutory court with limited jurisdiction, 3-25
 - transfer pricing adjustment request, 3-52.6
 - voluntary disclosure applications, 4-251
 - Underused Housing Tax Act* appeals, 11-17
 - veterans appeals, 11-9
- JURISDICTION, LACK OF
- abuse of power, 4-203
 - abuse of process, 4-203

INDEX

JURISDICTION, LACK OF *continued*

accounting for payments/source deductions/
withholdings, 4-217
administrative policy, 4-218
alternative dispute resolution, 4-218
amended return, 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, 4-226
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

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, 4-78, 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
list incomplete, 4-435
rule, 4-336.1
partial disclosure
form, 4-890

INDEX

LIST OF DOCUMENTS *continued*

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* CASE MANAGEMENT; SETTLEMENT CONFERENCE; STATUS HEARING; TRIAL MANAGEMENT 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/abridgments, 4-46

MOTIONS

affidavit of counsel, 4-310
affidavits, 4-309 *et seq.*
affidavits in opposition, 4-303

affidavits or other documentary material to be
used, 4-302

costs, 4-308, 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
proof of service, 4-303
re-examination on affidavit, 4-326
service of notice, 4-300
seven days' notice, 4-303
supplementary affidavit, 4-326
teleconference/video conference, by, 4-33
withdrawing affidavit, 4-327
written representations, 4-304, 4-307

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

INDEX

- NON-COMPLIANCE WITH RULES *continued*
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
remedying 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
proof of notice, 4-565
security for costs, compliance, 4-838
status hearing, 4-561
writing, to be in, 4-56
- NOTICE OF APPEAL
condition precedent, 4-117
contents, 4-116 *et seq.*
CPP appeals, 7-17, 7-35
EIA appeals, 8-30, 8-32, 8-52
Excise Act 2001 appeals, 10-12, 10-14, 10-28,
 10-33
General Procedure
 filing, 4-59
 form, 4-880
 rule, 4-59
GST appeals, 6-14
Informal Procedure, 5-11, 5-35
Part V.1 *Customs Act* appeals, 9-15, 9-29, 9-34
reply, Informal Procedure, 5-13, 5-14
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.
 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
 Excise Act 2001 appeals, 10-20, 10-32
 Informal Procedure, 5-25
 Part V.1 *Customs Act* appeals, 9-21, 9-33
issues not raised in, 3-44
- NOTICE TO ATTEND
examination out of court
 form, 4-898
 rule, 4-532
examinee to be given notice of time and place,
 4-533
- 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
- OFFICIAL LANGUAGE, 18-102.2.6
- OLD AGE SECURITY ACT* APPEALS, 11-5
case law, 11-6

INDEX

- ONUS OF PROOF. *See* BURDEN OF PROOF
- OTHER TAXPAYERS. *See* CONFIDENTIALITY; EVIDENCE
- OVERVIEW OF PROCEDURE
- Air Travellers Security Charge Act*, 11-3
 - appeals, flow chart, 3-5
 - Canada Disability Benefit Act* appeals, 11-27
 - CPP appeals
 - employee or employer contributions, 7-3
 - self-employed earnings, 7-8
 - Cultural Property Export and Import Act* appeals, 11.1-1
 - Customs Act*, 9-1
 - Digital Services Tax Act* appeals, 11-25
 - Disability Tax Credit Promoters Restrictions Act* appeals, 11-15
 - EIA appeals, 8-1
 - employee or employer contributions, 8-7
 - self-employed persons, assessments of contributions on Part VII.1, 8-13
 - Excise Tax Act, 2001* appeals, 10-1
 - Global Minimum Tax Act* appeals, 11-21
 - Greenhouse Gas Pollution Pricing Act* appeals, 11-13
 - GST appeals
 - General Procedure, 4-9 *et seq.*
 - ITA appeals
 - General Procedure, 4-9 *et seq.*
 - preliminary, 16-1 *et seq.*
 - objections to, 4-654
 - Old Age Security Act* appeals, 11-5
 - Petroleum and Gas Revenue Tax Act*, appeals, 5-1
 - 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.*
 - Select Luxury Items Tax Act* appeals, 11-19
 - Softwood Lumber Products Export Charge Act, 2006* appeals, 11-11
 - Underused Housing Tax Act* appeals, 11-17
 - veterans appeals, 11-9
- OWNERSHIP, 17-88.1
- PAROL EVIDENCE RULE, 17-88.3
- PART V.1 CUSTOMS ACT APPEALS
- admissions, judgments on, 9-24
 - appellant's address for service of documents, 9-14
 - application of rules, 9-12
 - associate judges, 9-12
 - case law, 9-11
 - contempt of court, 9-26
 - costs, 9-17
 - bill of costs, form, 9-31
 - vexatious proceedings, 9-20
 - discontinuance, 9-16
 - discontinuance notice, form, 9-30
 - electronic filing, 9-14
 - expert witness, 9-16
 - filing other documents, 9-14
 - forms, 9-29
 - General Procedure guide, 9-5
 - Informal Procedure
 - election for application of, form, 9-32
 - guide, 9-7
 - judgments
 - admissions or documentary evidence, 9-24
 - pronouncing and entering judgments, 9-17
 - jurisdiction, 9-1
 - notice of appeal, 9-13
 - date of, 9-14
 - electronic filing, 9-14
 - extension application, form, 9-34
 - form, 9-29
 - reply to, 9-15
 - notice of discontinuance, 9-16
 - notice of objection, extension of time for filing, 9-21
 - form, 9-33
 - overview, 9-1
 - procedural guide, 9-5
 - removal of appeal, 9-20
 - notice of discontinuance, 9-30
 - service of documents, appellant's address for, 9-14
 - subpoena, 9-24
 - TCC rules of procedure, 9-11
 - vexatious proceedings, costs, 9-20
- PARTICULAR FACTS
- direction as to proof of, 4-684
- PARTICULARS, DEMAND FOR, 4-173
- affidavit supporting particulars, 4-180
 - facts not arguments, 4-175

INDEX

- PARTICULARS, DEMAND FOR, 4-173 *continued*
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
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; RETURNS, ASSESSMENTS,
PAYMENTS 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
wilful blindness, 17-114
late filing, 16-58
late/deficient installments, 16-69
lesser, 4-234
repeated failure to file return, 16-62.03
repeated failures, 16-62.06
- PETROLEUM AND GAS REVENUE TAX ACT
APPEALS. *See* INFORMAL PROCEDURE
RULES
- PIERCING CORPORATE VEIL, 17-18
- PLACEMENT AGENCIES, 8-26
- 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
particulars, 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
special rules, 4-164
striking out. *See* STRIKING OUT PLEADING
OR OTHER DOCUMENT
- 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
expert panels, D-24
gowning, D-3
Hamilton office opening, D-36
Hamilton office to cease operations, D-60
hearing locations, D-6
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

INDEX

PRACTICE NOTES *continued*

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
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

informer, 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, 3-38.2, 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, 3-133
determination of, 4-282

INDEX

- QUESTIONS, DETERMINATION OF, 3-133
continued
rule, 4-281
- REASSESSMENT. *See* ASSESSMENT;
RETURNS, ASSESSMENTS, PAYMENTS
AND APPEALS
- REBUTTAL EVIDENCE, 4-655, 17-104.1, A-32
- RECHARACTERIZATION. *See* RETURNS,
ASSESSMENTS, PAYMENTS AND APPEALS
- RECIPROCAL TAXATION AGREEMENTS AND
CROWN IMMUNITY, 3-52
- RECOVERY OF DEBT/DAMAGES, 14-2
- RECTIFICATION ORDERS, REFERENCES
Excise Tax Act, s. 310
applicable procedure, 3-134
originating document, 4-59, 4-881
overview (chart), 4-21
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
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
applicable procedure, 3-135
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 based on hearsay, 4-140
assumptions, conclusions of law, 4-142
assumptions of fact, not evidence, 4-139
CPP appeals, 7-22
EIA appeals, 8-37
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, 6-17
implicit or inferred assumptions, 4-148
Informal Procedure, 3-94, 3-97, 5-13, 5-14
issues to be decided, 4-159
misrepresentation, 4-150, 4-157

INDEX

- REPLY *continued*
 no knowledge, 4-130
 not pleaded, 4-150
 other material facts, 4-154
 reasons respondent intends to rely on, 4-164
 relevance of assumptions, 4-150
 rule, generally, 4-125
 rule structure, 4-126
 special rules, 4-164
 dishonesty or fraud, 4-164
 pleading GAAR, 4-164
 pleading jurisdiction, 4-165
 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
 evidence in tax appeals (cases), 17-106.3,
 17-106.4, 17-106.6
- 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

INDEX

RETURNS, ASSESSMENTS, PAYMENTS AND APPEALS *continued*

- 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 installments, 16-42
- s. 156 other individuals, 16-42
- s. 156.1 no installment required, 16-43
- 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 installments, 16-58
- s. 162 due diligence defence, 16-60
- s. 162 failure to file return, 16-58
- 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 installments, 16-69

INDEX

RETURNS, ASSESSMENTS, PAYMENTS AND

APPEALS *continued*

- 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) and s. 164(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
- 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*, 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

INDEX

- SECURITY FOR COSTS *continued*
when application to be made, 4-837
- SEIZURE/SALE, 4-867
- SELECT LUXURY ITEMS TAX ACT* APPEALS,
11-19
- SELF-EMPLOYED PERSONS
contributions by, appeals related to
 CPP appeals, 7-8, 7-14, 7-30
 EIA appeals, 8-13
- SELF-REPRESENTED PARTY. *See* COSTS
- SENDING AND RECEIPT OF ASSESSMENTS,
16-10.06
- SERVICE
address for, 4-103, 4-105
 Excise Act, 2001 appeals, 10-14
 Informal Procedure rules, 5-13
 Part V.1 *Customs Act* appeals, 9-14
amended pleadings, of, 4-279
CPP appeals, 7-30
dispensing with, 4-103
EIA appeals, 8-46
ex juris, 4-108
fax, by, 4-105
mail, by, 4-105
notice of motion, of, 4-298
notice to attend (examinations out of court),
 4-533
personal, 4-103
proof of, 4-107
 by mail, 17-102.6
 motions, 4-303
rule, 4-103
substituted, 4-104
validating, 4-107
- SET-OFF, 4-241
- SETTING ASIDE
effect of non-compliance, 4-36
interlocutory judgment, 4-856.1
I.P., dismissal for non-appearance, 3-100
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* APPEALS, 11-11
case law, 11-12
jurisdiction, 11-11
- 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

INDEX

- STATUS HEARING *continued*
 taxation of costs, and, 4-826
 teleconference/video conference, by, 4-33
- STATUTORY INTERPRETATION. *See*
 INTERPRETATION OF TAX STATUTES
- STAY OF PROCEEDINGS, 4-68.1
 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
 scandalous/frivolous/vexatious, 4-188
 with or without leave to amend, 4-185
- SUBPOENA
 calling witness on, 4-683
CPP appeals, 7-28
EIA appeal, 8-44
 examination out of court, 4-532, 4-896
Excise Act 2001 appeals, 10-24
 GST appeals, 6-28
 Informal Procedure, 5-29
 Part V.1 *Customs Act* appeals, 9-24
 witness at trial, 4-676, 4-769
- SUBSTANCE VERSUS FORM, 17-110.1
- SUPERIOR COURT OF RECORD, 3-11
- SUPERNUMERARY JUDGES, 3-20
- 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, 3-28.1
 application, 3-64
 apprehension of bias, 3-13
 bound to act *ex necessitate*, 3-18
in camera proceedings, 3-58
 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, 3-38.2
 common law, civil law and equity, 3-38.2
 federal laws, 3-40
 provincial laws, 3-41
 consideration of sections not pleaded, 3-42
 constitutional questions require facts, 3-140.01
 constitutional questions require facts, notice of,
 3-140.01
 contempt of court, 3-53, 4-871
 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
 implied jurisdiction over own process, 3-30
 independence of judiciary, 3-19
 issues not raised in Notice of Objection, 3-45
 judges, 1-1, 3-12
 judicial administrator, 1-3
 judicial comity, 3-46
 jurisdiction, 3-21 *et seq.*

INDEX

TAX COURT OF CANADA *continued*

limits to jurisdiction, 3-45
 alternative dispute resolution, 4-218
 amended return, 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, 3-65, 3-80
rules committee. *See* RULES COMMITTEE
rules of evidence, 3-84
security, 3-56
settlement agreements, enforcement, 3-49
sittings, 3-56, 3-148, D-38
stare decisis, 3-52
stare decisis and *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, 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
childcare, 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/video conference, 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

TCCA, s. 19.1, 3-137

INDEX

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, 7-31

intervention, 7-21

reply, 7-22

discovery of documents

list of documents (partial disclosure), 4-335

notice to produce, responding to, 4-332

EIA appeals

calculation of time, 8-47

intervention, 8-35, 8-37

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

expert witnesses, 6-18

extension of time, 6-24

reply, 6-17

hearing in absence of opposite party, 4-47

holiday/Saturday, B-26

Informal Procedure

extension of time, 5-25, 5-43

reply, 5-13

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, 4-307

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

TRANSFER PRICING

adjustment request, jurisdiction, 3-52.6

expert evidence, subjects of, 17-74.2.4

interpretation of tax statutes, 18-121

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

INDEX

- UNDERUSED HOUSING TAX ACT* APPEALS, 11-17
- UNDUE HARDSHIP, 16-39
- URGENT TELEPHONE CALLS, D-13
- VAGUENESS, 18-63
- VALUATION, 17-68
- VETERANS APPEALS, 11-9
- VEXATIOUS PROCEEDINGS, 3-137
costs in, 4-791
 CPP appeals, 7-34
 EIA appeals, 8-51
 Excise Act 2001 appeals, 10-19
 GST appeals, 6-23
 Informal Procedure rules, 5-23
 Part V.1 *Customs Act* appeals, 9-20
- VIDEO CONFERENCE
evidence, 4-698
z. see also TELECONFERENCE/VIDEO-CONFERENCE, 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, 11-9
- 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
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 with expertise, 4-704
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

INDEX

WITNESSES *continued*

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
video conference evidence, 4-698
warrant, 4-676

WORKING PAPERS (AUDIT), 17-121

WRIT OF SEIZURE AND SALE, 4-867

WRITTEN INTERROGATORIES, 4-550 *et seq.*,
4-902, 4-903

WRITTEN REPRESENTATIONS, 4-304, 4-307

WRITTEN SETTLEMENT OFFERS, 4-742