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## Publisher's Note

**2025 — Release 3**

Previous release was 2025-2

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# Canadian Value-Added Taxation — A Practitioner's Guide

This release updates the following chapters:

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

### Highlights:

- **Chapter 3 — Exempt Supply — Input Tax Credits Denied — Rental of Residential Units — Expenses Personal —** Where the registrant owned a rental property consisting of a commercial unit and two residential units, she was denied input tax credits for expenses incurred as the rental of the residential units was an exempt supply, the expenses were found to be personal, and there was a lack of documentation as required by subs. 169(4) of the *Excise Tax Act: Saha v. The King, 2025*

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CarswellNat 3446, 2025 TCC 118, [2025] G.S.T.C. 32 (T.C.C. [Informal Procedure]).

- **Chapter 5 — Collection and Payment — Input Tax Credits — Rental Property — Documentation — ITCs Denied — Lack of Documentation** — Where the registrant owned a rental property consisting of a commercial unit and two residential units, she was denied input tax credits for expenses incurred as the rental of the residential units was an exempt supply, the expenses were found to be personal, and there was a lack of documentation as required by subs. 169(4) of the *Excise Tax Act: Saha v. The King*, 2025 CarswellNat 3446, 2025 TCC 118, [2025] G.S.T.C. 32 (T.C.C. [Informal Procedure]).
- **Chapter 6 — Administration and Enforcement — Penalties — Waiving Interest and Penalties — Extraordinary Circumstances — Taxpayer Ineligible for New Home Rebate — Taxpayer Required to Return Rebate — Interest Accruing From Refusal of Taxpayer’s Objection — Partial Relief — CRA’s Delay in Audit — CRA’s Delay in Issuing First Warning Letter** — Where the taxpayer was found to be ineligible for the new home rebate, and was required to return the entire amount, he was also liable for arrears interest from the date of the refusal the taxpayer’s objection by the Appeal Division of the CRA until the date of payment, but partial relief was granted due to the CRA’ delay in auditing the rebate application, and in issuing its first warning letter: *Chan v. Canada (Attorney General)*, 2025 CarswellNat 2662, 2025 FC 1209, [2025] G.S.T.C. 29, 2025 D.T.C. 5114 (F.C.).
- **Chapter 6 — Administration and Enforcement — Appeals to Federal Court — Judicial Review — Minister Denying Refund for ITCs in Reporting Periods Beyond Limitation Period — Parliament Precluding Minister From Issuing Such Refund — Application for Judicial Review Dismissed — Mandamus Not Available — Applicant Not Having “Clear Right” to Performance of Duty — Federal Court of Appeal Not Interfering with Federal Court’s Exercise of Discretion:** — Where the applicant applied for a refund for ITCs in reporting periods that were outside the four year limitation period set out in s. 225(4) of the ETA, and Parliament

precluded the Minister from issuing such a refund, the applicant's application for judicial review of the Minister's decision was dismissed as mandamus was not available as the applicant did not have a "clear right" to performance of a duty by the Minister to issue the refund. The Federal Court's conclusion that there was equitable bar to the relief sought was sufficient to dispose of the appeal. The Federal Court found that the unexplained 15-month delay of inactivity between being notified by CRA that its objection was invalid, and the applicant initiating proceedings before the Tax Court of Canada created an equitable bar to the issuance of an order of mandamus in the applicant's case. This finding was a discretionary finding and absent a palpable and overriding error, the appellate court could not interfere with Federal Court's exercise of discretion: 3533158 *Canada Inc. v. Canada (Attorney General)*, 2024 FC 1090, 2024 CarswellNat 2676, 2024 D.T.C. 5113, [2024] G.S.T.C. 35 (F.C.), affirmed 2025 CarswellNat 3690, 2025 FCA 163, [2025] G.S.T.C. 34 (F.C.A.).

- **Chapter 6 — Administration and Enforcement — Director's Liability — Unpaid PST/GST Remittances — Director Resigning — Director Liable as Assessed Within Two Years of Written Resignation** — Where the taxpayer was an investor and director of a company that ran into financial difficulties and failed to remit the source deductions, as well as PST/GST remittances, he was liable as director under the *Income Tax Act* for the company's debt when he was assessed within two years of his written resignation, and when he did not turn his mind to preventing such failure: *Astle v. The King*, 2025 CarswellNat 3088, 2025 TCC 105, 2025 D.T.C. 1071 (T.C.C. [Informal Procedure]).
- **Chapter 11 — Special Sectors — Real Property — Residential Property — New Housing Rebate — Parents Purporting to Purchase Condominium Unit for Son — Son Residing in Unit for Short Time — Son Returning to Family Home — Unit Not Acquired as Son's Primary Place of Residence** — Where the husband and wife purchased a condominium unit that their son occupied for a short time, and then returned to their family home, the husband's application for a GST/HST New Housing Rebate was denied as the husband

failed to demonstrate that the assumption that he did not acquire the property with the intention of using it as a primary place of residence for himself or a qualifying relation was incorrect: *Elhav v. The King*, 2025 CarswellNat 4081, 2025 TCC 132 (T.C.C. [Informal Procedure]).

- **Chapter 11 — Special Sectors — Real Property — Residential Property — New Housing Rebate — Applicant and Friend Purchasing New Home — Friend Never Residing in Home — Prior to April 2021, ETA Requiring Both Purchasers to Reside in Home — New Housing Rebate Denied — Minister Not Required to Demolish Any Assumption Regarding Intention** — Where the applicant and his longtime friend purchased a new home under construction purportedly intending to treat it as their primary residence, the applicant’s claim for GST/HST new housing rebate was denied due to the friend’s non-residence of the home, and the applicant did not need to demolish any assumption regarding his friend’s intention at the time of the purchase: *Mvemba v. The King*, 2025 CarswellNat 4105, 2025 TCC 140 (T.C.C. [Informal Procedure]).
- **Chapter 11 — Special Sectors — Real Property — Residential Property — New Housing Rebate — Eligibility Based on Intention When Liability Assumed — Eligibility Not Based on on First Person to Occupy New Home — COVID-19 Pandemic Delaying Move as Purchasers Being Health Care Workers** — Section 254(2)(b) of the *Excise Tax Act* did not require a taxpayer to have the intention to be the first person to occupy the new home in question, but only that when the individual assumed liability for the sale, there was the intention to occupy the property in question as his or her primary place of residence: *Osagie v. The King*, 2025 CarswellNat 3574, 2025 TCC 114, [2025] G.S.T.C. 33 (T.C.C. [Informal Procedure]).
- **Chapter 11 — Special Sectors — Real Property — Residential Property — New Housing Rebate — Parents Purchasing Home for Each Son — Parents Arranging Mortgages — Rebates Allowed — Sons Intending to Use Homes as Primary Place of Residence** — Where the parents

wanted their two sons to have their own homes, and each son entered into an APS to purchase a new home in a local subdivision with the parents paying the deposits, and mortgages being arranged, the sons' applications for the GST/HST new housing rebates were allowed on appeal as both sons intended to use their home as their primary place of residence: *Lisi v. The King*, 2025 CarswellNat 3138, 2025 TCC 106, 2025 D.T.C. 1086, [2025] G.S.T.C. 30 (T.C.C. [Informal Procedure]).

- **Chapter 11 — Special Sectors — Real Property — Residential Property — New Housing Rebate — Applicant and Family Living in Rented Apartment — Applicant Purchasing Home in Another City — Home Sold One Year Later — Rebate Denied — Court Disbelieving That Family Lived in Home for One Year** — Where applicant purchased a townhouse in another city that he sold one year later, while living with his family in a rented apartment in Toronto, he was denied a GST/HST new housing rebate as the court disbelieved that he moved his family to the property as their primary residence for one year, and then back to Toronto: *Bhalli v. The King*, 2025 CarswellNat 3389, 2025 CarswellNat 3389, 2025 TCC 117, [2025] G.S.T.C. 31 (T.C.C. [Informal Procedure]).

