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Aron

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Publisher's Special Release Note 2025

The pages in this work were reissued in September 2025 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the September 2025 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

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What's New in this Update

This release adds new commentary to the content in Chapter 2 (The Tax Treatment of Damages), Chapter 4 (Disputes Between Corporations and their Shareholders), Chapter 6 (The Tax Consequences of Bankruptcy and Insolvency), Chapter 7 (Issues in Separation and Divorce), Chapter 10 (Goods and Services Tax/Harmonized Sales Tax (GST/HST)), and Chapter 11 (Directors' Liability—The Cases and the Rules of Thumb).

Highlights

This release includes the following case law:

- **Chapter 2—Tax Treatment of Damages—Damages Received or Receivable—Employment Relationship—Workers to be Paid as Contractors—Employer Withholding Source Deductions—Accountant Issuing T4s—Director Liable for Unremitted Source Deductions—** Where the director set up his company with the workers to be paid as contractors, but deducted and withheld source deductions under s. 277 of the *Income Tax Act*, and the accountant issued T4s and a T4 summary, the amounts were impressed with a trust in favour of the Crown, and the director was liable for the unremitted source deductions: *McCague v. The King*, 2025 TCC 59, 2025 CarswellNat 1568, [2025] 5 C.T.C. 2063, 2025 D.T.C. 1037 ([General Procedure]).
- **Chapter 2—Tax Treatment of Damages—Damages Received or Receivable—Employment Relationship—Taxpayer Hired as Contractor by Provincial Crown—CRA Reclassifying Taxpayer as Employee—Taxpayer Entitled to T1 Adjustments—Taxpayer Entitled to Excessive CPP Contributions—Some Refunds Denied as Requests Beyond Four Year Limitation Period Under CPP—**Where the taxpayer was initially hired by the Provincial Crown as a contractor, treating his income as business income, and making full CPP contributions, but the CRA subsequently reclassified the taxpayer as an employee, who was then entitled to request T1 adjustments to replace his income as employment income and receive any resulting refunds of excessive CPP contributions, his requests for refunds following the CRA's Notices of Reassessment, were denied when brought beyond the four-year limitation period under subs. 38(4) of the *Canada Pension Plan*, R.S.C. 1985, c. C-8 (CPP): *Tolley v. v. The King*, 2026 TCC 14, 2026 CarswellNat 102 ([General Division]).
- **Chapter 2—Tax Treatment of Damages—Damages Received or Receivable—Employee as Pensioner—Employee Reaching 65 Years—Employee Electing Not to**

Contribute to CPP—Election Filed When Pension "Payable"—Employer Not Required to Remit CPP Contributions—Employer Not Required to Wait Until Penson Approved—Where an employee did not wish to contribute to CPP while receiving CPP benefits upon reaching 65 years of age, the employee was entitled to file an election for such purpose when the CPP benefits where "payable", and it was not necessary for the employer to collect and remit CPP contributions until the pension was approved: *Golden View Management Group Inc. v. M.N.R.*, 2025 TCC 167, 2025 CarswellNat 5285 ([Employment Insurance]).

- **Chapter 4—Disputes Between Corporations and Their Shareholders—Planning Considerations—Section 160(1) Reassessments—Two Original Reassessments for Two Transfers—Reassessments Reduced Following Consent Judgment—Arrears Interest Accruing From Original Reassessment Dates—**Where the Minister reassessed a transferee under s. 160(1) of the Act, the Minister was entitled to assess arrears interest from the day on which the Minister sent the original s. 160(1) assessment: *Brown v. The King*, 2025 TCC 184, 2025 CarswellNat 5594, 2025 D.T.C. 1119 ([General Procedure]).
- **Chapter 6—Tax Consequences of Bankruptcy and Insolvency—Bankrupt Corporation—Plan of Arrangement—CCCA—Failure to Remit GST and Excise Duties—Reverse Vesting Order (RVO) Approved—Release of Liability of Directors—RVO Allowing Business to Continue—**Where the registrant companies ran into financial difficulties, and failed to remit GST and excise duties to the CRA, and sought relief under the *CCCA*, their applications to approve the sale of their facility, which involved releasing the directors from liability, and implementing a RVO were approved as it would allow the business to continue under new ownership for the benefit of all stakeholders: *Delta 9 Cannabis Inc (Re)*, 2025 ABKB 52, 2025 CarswellAlta 161.
- **Chapter 6—Tax Consequences of Bankruptcy and Insolvency—Bankrupt Corporation—Plan of Arrangement—CCCA—Unpaid Excise Duties of $9.7 million—"Stalking Horse Bid" by Only Secured Creditor—Reverse Vesting Order (RVO) Approved—Release of Liability of Directors—RVO Allowing Business to Continue as Going Concern—**Where the debtor company had some $9.7 million in unpaid excise duties, and entered proceedings under the *CCCA*, and following an unsuccessful sale and investment solicitation process, a nominee of its only secured creditor put in place a "stalking horse bid", whereby the directors would be released from liability, the transaction, which involved a RVO, was approved as the transaction enabled the company to continue as a going concern

enterprise. In *Freedom Cannabis Inc (Re)*, 2025 ABKB 272, 2025 CarswellAlta 1018, 19 C.B.R. (7th) 47, [2025] 5 C.T.C. 263.

- **Chapter 7—Issues in Separation and Divorce—Planning Opportunities—Section 160 Reassessment—Beyond Normal Reassessment Period—Underlying Reassessment Not Statute Barred—Timely Filing of Waiver by One Day—**Where the taxpayer's transferred a property to his spouse in 1993 "for love and affection", but he was later reassessed under the *Income Tax Act*(ITA) for the 1988-1991 taxation years, resulting in a tax liability, the spouse was subject to reassessment for liability under s. 160 of the *ITA*, beyond the normal reassessment period, as the underlying assessment was not statute-barred due to the timely filing of a waiver by one day: In *Canada v. Csak*, 2025 CarswellNat 794, 2025 CarswellNat 795, 2025 FCA 60, 2025 CAF 60, [2025] 4 C.T.C. 73, 2025 D.T.C. 5043 (F.C.A.) reversing *Csak v. The King* (2024), [2024] 3 C.T.C. 2106, 2024 D.T.C. 1012, 2024 CarswellNat 106, 2024 TCC 9 (T.C.C. [General Procedure]).
- **Chapter 10—Goods and Services Tax—Basics of GST—Rebates—New Housing GST/HST Rebate—Reassessment Denying Rebate—Notice of Objection—Application for Extension to Denied—Lack of Timely Request for Extension—**Where the CRA reassessed the registrant, denying a new housing GST/HST Rebate, the registrant's application for an extension of time for the filing of a notice of objection was denied as a timely written request for an extension, and a written denial of the request were the necessary prerequisites for an application: *Akwaboah v. The King*, 2025 TCC 164, 2025 CarswellNat 4630, [2025] G.S.T.C. 43.
- **Chapter 10—Goods and Services Tax—Basics of GST—Rebates—New Housing GST/HST Rebate—Notice of Reassessment (NOR) Denying Rebate—Taxpayer Allegedly Not Receiving NOR—Notice Deemed Received When Mailed to Proper Address—Whether Received Being Irrelevant—**Where the Notice of Reassessment (NOR) denying the GST/HST New Housing Rebate was sent to the proper address on record with the CRA, the notice was deemed received by the taxpayer on the date it was mailed, and whether the taxpayer received the document was not relevant: *Ng v. The King*, 2025 TCC 172, 2025 CarswellNat 4817, 2025 D.T.C. 1107 ([Informal Procedure]).
- **Chapter 10—Goods and Services Tax—Basics of GST—Rebates—New Housing GST/HST Rebate—Applicant and Friend Purchasing Home—Applicant Claiming Rebate—Rebate Denied as Friend Not Living in Home—Friend's Intention at Time of Purchase Not Considered—**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 TCC 140, 2025 CarswellNat 4105, [2025] G.S.T.C. 35 ([Informal Procedure]).

- **Chapter 10—Goods and Services Tax—Basics of GST—Rebates—New Housing GST/HST Rebate—Two Friends Buying Home—Spending Weekends at Respective Parents' Homes—Qualifying for Rebate—Criterion Not Specifying That Home be Primary Place of Residence—**In order to determine if the taxpayer qualified for the new housing rebate under para. 254(2)(g) of the *Excise Tax Act*, the court must be satisfied that the taxpayer intended to occupy the property as his or her place of residence, and was the first to occupy the property at any time after substantial completion of the property, but this criterion did not specify that the property be the primary place of residence: *Paglia v. The King*, 2025 TCC 148, 2025 CarswellNat 4357, [2025] G.S.T.C. 39 ([Informal Procedure]).
- **Chapter 10—Goods and Services Tax—Basics of GST—Obligation to Calculate GST—Builder Deciding to Rent Building—Deemed Sale of Building—Not Matter That GST Not Collected—**Under s. 225(1) of *Excise Tax Act*, the registrant builder had an obligation to calculate net GST based on the amount of GST that became collectible, so it did not matter that the registrant did not actually collect the GST. In *Ayoub v. The King*, 2025 TCC 48, 2025 CarswellNat 946, [2025] G.S.T.C. 17 ([General Procedure]).
- **Chater 11—Directors' Liability—Dissolving of *CBCA* Corporation—Subsequent Revival of Corporation—Revival Not Prospectively Reinstating Director—**Where a *CBCA* corporation was dissolved for the failure to file annual returns, and was later revived by the Minister of National Revenue in order to collect certain GST debt, the revival of the *CBCA* corporation did had the effect of prospectively reinstating the director: *Maragos v. The King*, 2026 TCC 4, 2026 CarswellNat 34, [2026] G.S.T.C. 2 ([General Procedure]).