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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 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—Structured Settlements—Elements of Contract of Settlement—**In the context of a taxpayer making a settlement with the Minister of National Revenue, the Tax Court examined the basic elements of a contract of settlement in Ontario in *Zhang v. The King*, 2026 CarswellNat 1450, 2026 TCC 71 (T.C.C [General Procedure]).
- **Chapter 7—Issues in Separation and Divorce—Spousal Support—Income Inclusions and Deductions—Calculating Annual Income—Canada Child Benefits—"Shared Custody Parent"—Time Parent Resided With Dependent—**Under s. 122.6(b) of the *Income Tax Act*, it was not the amount of the parenting time that enabled a party to meet the definition of "shared custody parent", but rather the time which the parent resided with the qualified dependent: *Ginevro v. The King*, 2026 CarswellNat 259, 2026 TCC 23, 2026 D.T.C. 1019 (T.C.C. [Informal Procedure]).
- **Chapter 7—Issues in Separation and Divorce—Spousal Support—Income Inclusions and Deductions—Calculating Annual Income—Canada Child Benefits—"Eligible Individual"—Taxpayer Not Eligible for Refugee Status—Taxpayer Unable to Return to Home Country—Taxpayer Not "Protected Person"—Taxpayer Not Eligible for CCB Benefits—**Where the taxpayer, who was born in Somalia, came to Canada from the United States and was not eligible for refugee status due to criminal convictions in the United States, and although it was not safe for him to return to Somalia, he was not an eligible individual for CCB benefits for his two children as he was not a "protected person" under s. 122.6 of the *ITA*: *Mohamed v. The King*, 2026 CarswellNat 1505, 2026 TCC 72 (T.C.C. [Informal Procedure]).
- **Chapter 7—Issues in Separation and Divorce—Planning Opportunities—Section 160(1)—Husband Having Outstanding Income Tax—Husband Transferring Family Home to Wife and Son—Wife and Son Liable for Tax Debt in Proportion to Interest in Home—**Where the

taxpayer had outstanding income tax and penalties of over $ 1 million, and transferred all but one percent of the family home, which was registered in his name, to his wife and son, for little consideration, they were liable under s. 160(1) of the ITA for the taxpayer's tax debt in proportion to their interest in the home: *Gill v. The King*, 2026 CarswellNat 247, 2026 TCC 18, 2026 D.T.C. 1017 (T.C.C. [General Procedure]).

- **Chapter 10—Goods and Services Tax – Rebate Application—GST Paid in Error—Personal Care Home—Rental Payments–Supply Being Residential—Delayed Audit Discovering Error—Registrant Unable to Recover Payments Made Beyond Two Years—Despite Late Application Caused by CRA's Delayed Audit—**Where the registrant operated a personal care home, and paid GST/HST on the rental payments, but following a two-year audit, it was discovered that the GST/HST was paid in error as the supply was residential, the registrant's rebate application was denied for payments made beyond two years, although the CRA's delayed audit was the cause of the late application: *Heritage Square Retirement Living Inc. v. The King*, 2026 CarswellNat 558, 2026 TCC 39 (T.C.C. [Informal Procedure]).
- **Chapter 10—Goods and Services Tax—Exempt Supplies—Settlement—Sale of Two Homes—Alleged Settlement Exempting Sale of One Home—Minister Denying Settlement—Tax Court Determining Settlement Made and Enforcing Settlement—**Where the registrants sold two homes, and alleged that there was a settlement with the Minister that the sale of one home was a taxable supply, and one home was an exempt supply, but the Minister denied the settlement, the Tax Court had jurisdiction to determine whether a settlement had been reached, and to enforce the settlement: *Zhang v. The King*, 2026 CarswellNat 1450, 2026 TCC 71 (T.C.C [General Procedure]).
- **Chapter 10—Goods and Services Tax—Exempt Supplies—Residential Complex Exemption—Property Required to be Residential Complex at Time of Sale—Purchaser's Intended Use Not Relevant—**In order to be covered by the residential complex exemption in Part I of Schedule V of the *ETA*, the relevant property must already be a residential complex at the time it was sold to the recipient, and that the recipient's intended use of the property was not relevant in this regard: *Moseley c. Le Roi*, (2026 CarswellNat 821, 2026 CCI 59, [2026] G.S.T.C. 15 (T.C.C. [Informal Procedure]).
- **Chapter 10—Goods and Services Tax—Rebate—GST/HST New Residential Rental Property Rebate—Application Denied as Beyond Two-Year Limit—Applicant Unable to Compel Minister to Accept Late Application—** When the taxpayer spouses, over an 11-year period, jointly

purchased seven residences and sold five of them, including the subject property, where the taxpayers built a home on acquired land, each of the taxpayers were found to be a “builder” per s. 123(1) of the *Excise Tax Act*, who made a “self-supply” per s. 191(1) of the Act, but the exemption under subs. 191(5) of the Act was not applicable, as the primary use of the property was inventory rather than residency: *Caddell v. The King*, 2026 CarswellNat 276, 2026 TCC 27, [2026] G.S.T.C. 4 (T.C.C. [Informal Procedure]).

- **Chapter 10—Goods and Services Tax—Rebate—GST/HST New Residential Rental Property Rebate—Application Denied as Beyond Two-Year Limit—Applicant Unable to Compel Minister to Accept Late Application—** Where the Minister of National Revenue disallowed a GST/HST new residential rental property rebate (NRRPR) on the basis that the applicant failed to file it on or before the two-year limit for such an application as required by the *Excise Tax Act* (ETA), the applicant could not rely on subs. 296(2.1) of the *ETA* to compel the Minister to accept his application despite being late: *Nagendra v. The King*, 2026 CarswellNat 631, 2026 TCC 46 (T.C.C. [Informal Procedure]).
- **Chapter 10—Goods and Services Tax—Rebate—GST/HST New Residential Rental Property Rebate—“Qualifying Residential Unit”—First Use by Tenant Required to be Minimum of One Year—**The first use of a new residential unit must either be or reasonably be expected to be a continuous occupation by the tenants as their primary place of residence for at least one year to be a “qualifying residential unit” under s. 256.2(1)(a)(iii)(B) of the *Excise Tax Act*: *Singh v. The King* 2026 CarswellNat 796, 2026 TCC 50, [2026] G.S.T.C. 14 (T.C.C. [Informal Procedure]).
- **Chapter 10—Goods and Services Tax—Rebate—GST/HST New Housing Rebate—Applicant Purchasing Unit After Suffering Heart Attack—Applicant Selling Unit After Recovering—Applicant Meeting Intention and Time of Occupancy Requirements for Rebate—**Where the applicant purchased a new residential condominium unit after suffering a heart attack, but thirteen months later, sold the unit as he recovered his health, and after being unable to find suitable parking nearby, he met the requisite intention and time of occupancy to qualify for the new housing rebate: *Talukdar v. The King*, 2026 CarswellNat 357, 2026 TCC 28, [2026] G.S.T.C. 6 (T.C.C. [Informal Procedure]).
- **Chapter 10—Goods and Services Tax—Legal Services—Bad Debt Deduction—Accounts Receivable Debts—Law Firm Required to Individually and Significantly Pursue Collection Efforts—**Where the law firm’s accounts receivable debts were not individually and significantly pursued by collection efforts, they did not qualify for deductions from net

tax as bad debts under subs. 231(1) of the *Estate Tax Act*: *Heydary Green Professional Corporation v. The King*, 2026 CarswellNat 1126, 2026 TCC 69, [2026] G.S.T.C. 18 (T.C.C. [Informal Procedure]).

- **Chapter 10—Goods and Services Tax—Directors' Liability—*De Facto* Director Conducting Company's Operations—Minister Assessing Only *De Jure* Director for Unremitted GST—Minister Not Obligated to Make Reasonable Efforts to Search for Corporate Assets—** Where the taxpayer purchased a company from an acquaintance, who conducted the company's operations, and the taxpayer became the sole director as the acquaintance lacked the ability to open a bank account, and a few months later was assessed GST following an audit of the company, the assessment was upheld as the taxpayer was the only de jure director of the company, and s. 323(2)(a) of *ETA* did not impose an obligation on the Minister to make reasonable efforts when directing the sheriff and to search for specific corporate asset: *Darville v. The King*, 2026 CarswellNat 756, 2026 TCC 54, [2026] G.S.T.C. 13 (T.C.C. [Informal Procedure]).
- **Chapter 10—Goods and Services Tax—Directors' Liability—Sole Director Acquiring Company—Director Considered to Have Knowledge of Company's Delinquency in Making GST/HST Remittances—Director's Alleged Resignation Being Fabricated—**The sole director of the registrant was liable for the registrant's unremitted GST/HST when he must have known that the registrant was delinquent in its filings and remittances when he acquired the registrant's shares, and where there was no proof that his resignation letter was valid: *Stevens v. The King*, 2026 CarswellNat 1504, 2026 TCC 76 (T.C.C. [General Procedures]).
- **Chapter 11—Directors' Liability—One Spouse as Director and Shareholder of Company—Other Spouse as Shareholder of Related Company—Both Spouses Receiving Unreported Shareholder Benefits—Both Spouses Having Person Expenses Paid by Companies—Spouses Assessed Gross Negligence Penalties for False Statements in Tax Returns—**Where one spouse was the sole shareholder and director of one company, and both spouse were shareholder s of a related company, and both spouses received unreported shareholder benefits, and had their personal expenses paid by the companies, they were assessed gross negligence penalties pursuant to subsection 163(2) of the *ITA* for making false statements in their tax returns: *Poce v. The King*, 2026 CarswellNat 680, 2026 TCC 34, [2026] G.S.T.C. 11 (T.C.C. [General Procedure]).