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TAX COURT PRACTICE
McMechan & Bourgard
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Highlights

Chapters 3, 4, 5, 6, 8, 11, and Appendix D have been updated. The following are some notable highlights.

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Volume 1

- **Chapter 3, Tax Court of Canada Act** — The following provisions have been updated: Amendment History (updated), § 3:2; s. 4 Constitution of Court — Appointment of Judges (note updated); s. 12 Jurisdiction (legislative history updated), § 3:17; s. 12 Jurisdiction — Issues Not Raised in Pleadings (*Bousquet c. Canada*); s. 12 Power to Consider Issues or Sections of the Act Not Pleaded (*Salehi v. The King*); s. 12 Power to Enforce Settlement Agreements (*Zhang v. The King*); s. 13 Contempt Against Court — Contempt of Court (*Viterra Canada Inc. v. Grain Workers' Union (International Longshoreman's Warehousemen's Union, Local 333)*); s. 14 Sittings — Arrangements to be Made by Chief Justice — Hearing in Different Places (*King v. The King*); s. 16.1 Hearings *in Camera* — *In Camera* Proceedings (*Sherman Estate v. Donovan*); s. 16.2 Discontinuance — Effect of Discontinuance (*Yi v. The King*); s. 17.1 Right to Appear — Individual — Right to Appear — Other — Officers of the Court (*Stinson School Inc. v. The King*); s. 18.16 Time Limit for Reply to Notice of Appeal — Late Reply (*Bouchard v. The King*); s. 18.2 Adjournment (*Seunath v. The King*); s. 18.29 Other Applications (legislative history updated), § 3:55; s. 18.31 General Procedure — Determination of a Question (legislative history updated), § 3:74; s. 18.32 *Idem* — Provisions Applicable to Determination of a Question (legislative history updated), § 3:75; s. 19.2 Constitutional Questions — Notice of Constitutional Question (*Mohamed v. The King*); s. 20 Rules (*Zhang v. The King*).
- **Chapter 4, General Procedure Rules** — The following provisions have been updated: subsec. 4(1) Interpretation — Liberal Construction (*Gao v. The King*); s. 8 Attacking Irregularity — Attacking Irregularity and Fresh Steps (*Bank of Nova Scotia v. The King*; *Barati v. The King*; *Liu v. The King*); s. 16.1 Confidentiality Order (*K'omoks First Nation v. British Columbia (Utilities Commission)*; *Canada v. CAE Inc*); s. 26 When Proceedings May be Consolidated — Consolidation of Proceedings or Other Order (*Tiencon Electronics Export Company Limited v. The King*; *Barati v. The King*); s. 48 Rules of Pleadings — Applicable to Notice of Appeal — Contents Notice of Appeal (*10038555 Canada Limited v. The King*); s. 49 Assumptions of Fact (*Bank of Nova Scotia v. The King*); para. 49(1)(d) Assumptions — Assumptions of Fact — Inconsistent or Alternative Assumption (*Chennenkunnath v. The King*); para. 49(1)(e) Other Material Facts — Generally (*Birchcliff Energy Ltd. v. The Queen*); para. 49(1)(g) Statutory Provisions Relied On (*Thorburn v. The King*); s. 50 Rules of Pleadings — Applicable to Answer (*Fe Virrey v. The King*); subsec. 51(1) Pleading Documents or Conversations (*ArendiBio Solutions Inc v. The King*); subsec. 51(2) Inconsistent Allegations in a Pleading (*Ingredion Canada Corporation v. His Majesty The King*); s. 52 Demand for Particulars — Particulars for the

Purpose of Discovery and Trial (*Coe Newnes/McGehee ULC v. Valley Machine Works Ltd.*); subsec. 53(1) Striking Out a Pleading or Other Document — General Principles (*United Health Services Corporation v. The King*); subsec. 53(1) With or Without Leave to Amend (*10038555 Canada Limited v. The King*); para. 53(1)(a) Prejudice or Delay the Fair Hearing of the Appeal (*Zelkova Design Ltd. v. The King*; *ArendiBio Solutions Inc. v. The King*; *Brass Collar Capital Corp. v. The King*); para. 53(1)(b) Scandalous, Frivolous or Vexatious (*United Health Services Corporation v. The King*); para. 53(1)(c) Abuse of the Process of the Court (*Resler v. Anglin*; *Canada v. Csak*; *Kelly v. The King*); para. 53(1)(d) No Reasonable Grounds for Appeal or Opposing Appeal (*Bank of Nova Scotia v. The King*; *ArendiBio Solutions Inc. v. The King*); para. 53(3)(a) Court Has No Jurisdiction Over Subject-Matter of Appeal — Collections (*Cassidy v. The King*; *Harris v. The King*); para. 53(3)(a) Declaratory Relief (cross-reference updated) (*Brass Collar Capital Corp. v. The King*); para. 53(3)(a) Minister's Discretion to Waive Interest and Penalties (*Adelkhou v. The King*); para. 53(3)(a) Nil Assessments (new cross-reference); para. 53(3)(a) Prerogative Remedies (cross-reference updated); para. 53(3)(a) Provincial Tax, Provincial Credits, Provincial Penalties, Province of Residence (*Desjardins Sécurité financière Compagnie d'Assurance Vie c. Le Roi*; *Chobham Corporation Ltd. v. The King*); para. 53(3)(a) Transfer Pricing Adjustment Request (*Owens Corning Canada Holdings ULC v. The King*); s. 54 When Amendments to Pleadings May be Made — Amendments — Generally (*Rogers Communications Inc. v. Canada (Commissioner of Competition)*); s. 65 Notice of Motion — Rule 65 (note updated); s. 66 Place and Date of Hearing — Rule 66 (note updated); subsec. 67(1) Service of Motion, Affidavits or Other Documentary Material (new heading) (*Canada v. CAE Inc.*); s. 70 Disposition of Motion — Costs on Motions (*Viterra Canada Inc. v. Grain Workers' Union*); s. 72 Contents of Affidavit (*Brass Collar Capital Corp. v. The King*); s. 72 Striking Affidavits (*Brass Collar Capital Corp. v. The King*); s. 74 Evidence by Cross-Examination on Affidavit — Cross-Examination on Affidavit (*Prince v. Canada (Attorney General)*); s. 81 List of Documents (Partial Disclosure) — Partial Disclosure (*RF Securities Clearing LP v. The King*); subsec. 82(1) List of Documents (Full Disclosure) — Ongoing Obligation (new subheading) (*Steelhead LNG Limited Partnership v. ARC Resources Ltd.*); para. 82(2)(b) Listing Documents for Which Privilege is Claimed — Grounds of Objection — Litigation Privilege (*R. v. Bauman*; *Moore v. Getahun*); para. 82(2)(b) Solicitor-Client Privilege — Accounting Records of a Lawyer (*Sakab Saudi Holding Company v. Al Jabri*); para. 82(2)(b) Commission of Crime/Fraud Exception (*Sakab Saudi Holding Company v. Al Jabri*); para. 82(2)(b) Waiver of Privilege (*One York Street Inc. v. 2360083 Ontario Limited*); s. 86 Document in Possession of Non-Party (*Janssen*

Inc. v. Pfizer Canada Inc.); subsec. 93(2) Who May be Examined — Examination of a Corporation (*RF Securities Clearing LP v. The King*; *Nova Scotia Power Inc. v. The King*); subsec. 95(1) Scope of Examination — Scope of Discovery — Guiding Principles (*ONNI Development (RMG-1) Ltd. v. The King*); subsec. 95(1) Relevant to Issues Raised in the Pleadings (*Brant Investments Ltd. v. Canada*; *Nova Scotia Power Inc v. The King*; *ONNI Development (RMG-1) v. The King*); subsec. 95(1) Questions Asking for or About Documents (*RF Securities Clearing LP v. The King*); subsec. 95(1) Questions Raising Claims of Privilege (*ONNI Development (RMG-1) v. The King*); subsec. 95(1) Questions About Legal Positions and Legal Conclusions (*Nova Scotia Power Inc v. The King*); subsec. 95(1) Questions About Witnesses and Evidence (*RF Securities Clearing LP v. The King*); subsec. 95(1) Must Be Proper Questions (*Nova Scotia Power Inc. v. The King*); subsec. 95(1) Questions Taken Under Advisement; para. 95(1)(b) Cross-Examination and Credibility (*Nova Scotia Power Inc. v. The King*); s. 99 Discovery of Non-Parties with Leave (*Tavares v. The King*); subsec. 100(1) Use of Examination for Discovery at Hearing — Use of Discovery at Hearing (*ExxonMobil Canada Resources Company v. The King*); subsec. 100(8) Use of Discovery — Implied Undertaking (*Canada v. CAE Inc*); s. 107 Objections and Rulings — Questions Taken Under Advisement (new heading) (*Nova Scotia Power Inc. v. The King*); s. 110 Sanctions for Default or Misconduct (*MacIver v. The Queen*); s. 112 Examination Where Person Outside Canada (*Gao v. The King*); s. 125 Status Hearing — Rule 125 (note updated); s. 126.2 Settlement Conference — Rule 126.2 (note updated); s. 135 Order of Presentation at Hearing (cross-reference updated); Rule 135 (note updated); subsec. 135(2) Burden of Proof in an Appeal from an Assessment (*Akhavan v. The King*); subsec. 135(2) Foreign Taxes Paid (*Stern v. The King*); subsec. 135(2) Penalties — Gross Negligence — False Statements (*3278735 Nova Scotia Limited v. The King*); subsec. 135(2) Adducing Evidence or Putting the Facts Before the Court (*Web Listings Inc. v. The King*); subsec. 144(2) Evidence by Witnesses — Control Over Mode of Interrogation by Court (*R. v. Haevischer*; *R v. Comber*); Rule 145 (note updated); s. 146.1 Lead Cases (*Kelly v. The King*); subsec. 147(1) General Principles — The Tax Court's Principled Approach to Costs (*Canada v. Marine Atlantic*; *Romanchuk v. The King*); subsec. 147(1) Costs Follow the Event if Sought (*Canada v. Vefghi Holding Corporation*); subsec. 147(1) Advance or Interim Costs (*Papouchine v. College of Immigration and Citizenship Consultants*); subsec. 147(3) Factors Considered (*Canada v. Marine Atlantic*); para. 147(3)(a) The Result of the Proceeding (*Marine Atlantic Inc. v. The King*); para. 147(3)(b) Amounts in Issue (*Canada v. Vefghi Holding Corporation*); para. 147(3)(e) Volume of Work (*Afdon Contracting Ltd v. The King*); para. 147(3)(g) Conduct of a Party (*Canada v. Marine Atlantic*); s. 148 Costs on Discontinu-

ance (*Randhawa v. Panag*); s. 170 Judgments by Consent on an Appeal — Generally (*Zhang v. The King*); para. 172(2)(a) Setting Aside or Varying Judgments on the Ground of Fraud or Facts Arising or Discovered After it was Made (*Yi v. The King*).

- **Chapter 5, The Informal Procedure Rules for Income Tax Act and Petroleum and Gas Revenue Tax Act Appeals** — The following provision has been updated: s. 7 Expert Witnesses (note updated).
- **Chapter 6, GST/HST Appeals** — The following provisions have been updated: s. 4.2 Filing Date (*Twisted Leaves Ltd. v. The King*); s. 7 Expert Witnesses (note updated).
- **Chapter 8, Employment Insurance Act Appeals** — The following provisions have been updated: *Employment Insurance Act*, s. 103 — Appeals of Assessments of *EIA* Contributions on Part VII.1 Self-Employed Earnings — Nature of an Insurable Employment Appeal — Nature of Arm's Length Dealing under para. 5(3)(b) *EIA* (*Harvey c. M.N.R.*); s. 103 Contract of Service or Contract for Services — Common Law (*Varga v. M.N.R.*).
- **Chapter 11, Miscellaneous Statutes** — The following provision has been updated: *Old Age Security Act* Appeals — Case law (*Bousquet v. Attorney General of Canada*).

Volume 2

- **Appendix D, Practice Notes, Directions & Notices** — The following documents have been updated: Practice Note No. 13 (amended): Styles of Address; Practice Note No. 21: (amended): Settlement Conferences; Practice Note No. 27: Expert Reports (new); Tax Court of Canada Notice to the Public and the Profession: Motion Days and Virtual Status Hearings.

Over 100 new case annotations have been added. The Index has been updated to reflect the current Release.