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TAX COURT PRACTICE
McMechan & Bourgard
2026 – Release 3

Highlights

Chapters 13, 14, 15, 16, 17, 18, and Appendices A and B have been updated. The following are some notable highlights.

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Volume 2

- **Chapter 13, Judicial Review and Remedies in the Federal Court** — The following provision has been updated: subsec. 18.1(1) Judicial Review — Refusal to Amend a Return (*Rawlings v. Canada (Attorney General)*).
- **Chapter 14, Tax Appeals in the Federal Court of Appeal** — The following provisions have been updated: s. 52 Standard of Review — Expert Testimony (*Canada (Attorney General) v. Mosaic Forest Management Corporation*); s. 52 Standard of Review — Judicial Review (*Ashurova v. Canada (Attorney General)*); s. 52 Raising Matters Not Argued at Trial (*Grenon v. Canada*); Costs — Awards (*Canada v. Vefghi Holding Corporation*).
- **Chapter 15, Returns, Assessments, Payment and Appeals** — The following provisions have been updated: subsec. 150(1) Returns (*Isla v. Canada (Attorney General)*); subsec. 152(1) *ITA*/subsecs. 296(1), 297(1) *ETA* — Assess With All Due Dispatch (*Isla v. Canada (Attorney General)*); Nature of an Assessment and Liability for Tax (*Bouchard c. Le Roi*); subsec. 152(2) *ITA*/subsec. 300(1) *ETA* — Sending (and Receipt) of Notice of Assessment (*Fraser v. The King; Shaker v. The King*); subsec. 152(4) *ITA*/subsec. 298(1) *ETA* — General (cross-reference updated) (*Canada v. Csak*); subsec. 152(4) *ITA*/subsec. 298(4) *ETA* — Misrepresentation (*ExxonMobil Canada Resources Company v. The King*); subsec. 152(4.2) Reassessment with Taxpayer's Consent (*Tolley v. The King*); subsec. 152(7) *ITA*/subsec. 299(1) *ETA* — Minister not Bound by Return or Information Supplied — Bank Deposits/Cash Flow Analysis (*Premier Fasteners Inc. v. The King*); s. 160 *ITA*/s. 325 *ETA* — Tax Liability Re Property Transferred Not at Arm's Length — Beneficial Ownership/Trusts (*Gill v. The King*); Due Diligence/Knowledge of Transferee (*Eyeball Networks Inc. v. Canada*; *Brown v. The King*); Underlying Assessment (*Mercier c. Le Roi*; *Turcotte c. Le Roi*); subsec. 163(2) *ITA*/s. 285 *ETA* — Penalties — Carelessness/*Bona Fide* Filing Positions/Inadvertent Mistakes/Due Diligence (subheading title modified) (*Touchette c. Le Roi*); Penalties — Indifference/Ignorance of the Law/Wilful Blindness (*McCutcheon v. The King*); subsec. 165(1.1) *ITA*/subsec. 306.1(1) *ETA* — Limitation of Right to Object (*Sechelt Holdings Inc. v. The King*); subsec. 165(1.11) *ITA*/subsec. 301(1.2) *ETA* — Limitation on Objections by Large Corporations/Specified Persons (*941624 Alberta Ltd. v. The King*); subsec. 165(3) *ITA*/subsec. 303(3) *ETA* Duties of Minister on Objection — Reassessment May or May Not Nullify a Previous Assessment (*Toutain c. Le Roi*); subsec. 169(1) *ITA*/sec. 302 *ETA* — Appeal — Generally (*Brass Collar Capital Corp. v. The King*); s. 174 *ITA*/s. 311 *ETA* — Reference of Common Questions to Tax Court of Canada (*Kelly v. The King*); s. 180 Appeals to Federal Court of Appeal Re Charitable Status (*Jewish National Fund of Canada Inc. v. Canada (National Revenue)*).

- **Chapter 16, Evidence in Tax Appeals** — The following provisions have been updated: Admitted or Agreed Facts (*Amicarelli v. The King*); Bad Debts (*Heydary Green Professional Corporation v. The King*); Bookkeeping Entries (*Amex Bank of Canada v. The King*); Canada Revenue Agency (CRA) Records (*Jewish National Fund of Canada Inc. v. Canada (National Revenue)*); *Canada (National Revenue) v. Ne'eman Foundation Canada*); Cross-Examination (*Browne v. Dunne (R. v. McDonald)*); Directors (*Maragos v. The King*); Due Diligence (*Hunt v. Canada*); Estoppel: *Res Judicata* (Cause of Action and Issue Estoppel) and Abuse of Process Through Relitigation — Generally (*Patrick Street Holdings Ltd. v. 11368 NL Inc.*; *Tuccaro v. The Queen*); Expert Evidence — Non-Expert Opinion Evidence (*R v. Beausoleil*); Subjects of Expert Evidence — Foreign Law (*Hunt v. Canada*); Subjects of Expert Evidence — Legislative and Social Facts (*Canada (Information Commissioner) v. Canada (Minister of National Defence)*; *Ludmer v. Canada (Attorney General)*; *Knights of Columbus v. The Queen*; *Prévost Car Inc. v. The Queen*); Fraud (*Amicarelli v. The King*); Gifts (*Rowe v. The King*); Hearsay (*Amicarelli v. The King*); Incomplete Transactions — Input Tax Credits (new subheading) (*Boylu v. The King*); Judicial Notice: Legislative Facts/Social Facts (*Quebec (Attorney General) v. Kanyinda*); Parol or Extrinsic Evidence (*Cineplex Inc. v. The King*); Presumptions of Evidence (*Twisted Leaves Ltd. v. The King*); Procedure and Evidence: Statutory Provisions — *ITA* subsec. 244(14)/*ETA* subsec. 335(10) (cross-reference added); Profit (*Chad v. Canada*; *ExxonMobil Canada Resources Company v. The King*); Settlements (*Zhang v. The King*); Shares (*Zelkova Design Ltd. v. The King*).
- **Chapter 17, Interpretation of Tax Statutes** — The following provisions have been updated: The Modern Approach to Statutory Interpretation — Text (*Hunt v. Canada*); Complementary Principles of Interpretation — Charter/Charter Values (*Quebec (Attorney General) v. Kanyinda*); Deeming Provisions (*Suncor Energy Inc. v. Canada*); Definition Sections (*Canada v. Loblaw Financial Holdings Inc.*); Extraterritorial Application (new subheading); *ITA* — Nature and Purpose (*Hunt v. Canada*); Words and Phrases — "Business", "Carry On Business" (subheading title modified) (*Canada v. Paletta*); "Deduct/Deductible/Deducted" (subheading title modified) (*Rosen v. The King*); "Paid/Payable" (new subheading); "Property" (new subheading); "Transaction" (new subheading) (*ExxonMobil Canada Resources Company v. The King*).
- **Chapter 18, Charter of Rights and Freedoms** — The following provisions have been updated: s. 15(1) Charter Right to Equality Before and Under the Law and to Equal Protection and Benefit of the Law — Supreme Court of Canada Decisions (*Quebec (Attorney General) v. Kanyinda*); Criminal History (new heading) (*Mohamed v. The King*); Immigration Status (*Mohamed*

v. The King); s. 52 Primacy of Constitution of Canada — Constitution is the Supreme Law of Canada (*Quebec (Attorney General) v. Kanyinda*).

- **Appendix A, *Canada Evidence Act*** — The following provisions have been updated: s. 11 Cross-examination as to previous oral statements — Procedure on Proving Prior Oral Inconsistent Statement (*R. v. Kipusi*); s. 12 Examination as to previous convictions — "On Any Offence" (*R. v. Hussein*); s. 30 Business records to be admitted in evidence — subsec. 30(6) — Application and Probative Value (*Entezamfar v. Canada (Citizenship and Immigration)*; *ExxonMobil Canada Resources Company v. The King*); subsec. 30(11) — Supplementary (*R. v. Monkhouse*); s. 39 Objection relating to a confidence of the Queen's Privy Council (*Canada (Attorney General) v. Canadian Civil Liberties Association*).
- **Appendix B, *Interpretation Act*** — The following provision has been updated: s. 43 Effect of repeal (*Canada (Attorney General) v. Canadian Civil Liberties Association*).

Over 74 new case annotations have been added. The Index has been updated to reflect the current Release.