Tax Disputes & Litigation

More than ever, Canadian tax authorities are aggressively pursuing tax audits. It's key to have an experienced team to navigate all stages of the tax dispute process relating to Canada's federal and provincial taxes, including income tax, commodity taxes and GST/HST, and to advise on all stages of the dispute process – from risk assessment to audit through to appeals to the Courts.

We are particularly sensitive to, and able to provide advice on, matters of solicitor-client privilege. As communication with our team is protected by solicitor-client privilege, we can help you deal with tax disputes in a manner that provides maximum protection for your sensitive legal records.

Our multidisciplinary team provides advice in virtually every area of law, and we regularly draw on applicable non-tax expertise where it helps to achieve our clients' objectives in a tax dispute.

We understand that the best or most cost-effective results in a tax dispute can be achieved by negotiation and settlement. We are keen to pursue any and all settlement opportunities wherever possible and when in line with our clients' objectives, yet have the expertise to represent you in court if need be. Our litigators provide reliable counsel in the most complex tax cases, including before Tax Court of Canada, the appellate courts and the Supreme Court of Canada.

Experience

- *Agence du revenu du Québec v. Kone inc.*, 2024 QCCA 678 – Successfully acted as lead counsel for the taxpayer before the Court of Appeal of Québec, who dismissed the appeal by the Agence du revenu du Québec in a tax dispute involving a cross-border REPO and whether it should be viewed as a sham designed to disguise a loan and, if not, whether GAAR should apply. This is the first judicial consideration of the tax treatment of REPOs and GAAR in Canada.
- *Deans Knight Income Corporation v His Majesty the King* — Acted as counsel for the Canadian Chamber of Commerce intervening before the Supreme Court of Canada.
- *George Weston Limited v. Her Majesty the Quee*n, 2015 TCC 42 — Favourable characterization (capital v. income) of $2 billion of swap termination proceeds.
- *Birchcliff Energy Ltd. v. Her Majesty the Queen*, 2015 TCC 232— Whether the GAAR can apply to the use of tax attributes.
- *JTI-MacDonald Corp. v. Alberta*, 2015 ABQB 238, 2016 ABCA 28 — Successful in overturning a $16 million assessment of provincial tobacco tax.
- *Ollenberger v. Her Majesty the Queen*, 2013 FCA 74 — Whether the relevant oil and gas company carried on an "active business" for allowable businesses investment loss rules.

- *Boardwalk Equities Inc. v. Her Majesty the Queen*, 2013 FCA 140 / Calgary Board of Education v. Her Majesty the Queen, 2013 FCA 141 – Application of GST in the context of government natural gas and electricity rebates.
- *Neville v. National Foundation for Christian Leadership*, 2014 BCCA 38 — Appellate counsel to taxpayers in connection with the common law treatment of gifts.
- *R v. Husky Oil Operations Limited*, 2014 SKQB 116 — Lead trial counsel in a successful multi-week trial to a number of well servicing contractors in a long-standing industry-wide dispute involving the applicability of provincial sales tax.
- *Burlington Resources Canada Ltd. v. British Columbia*, 2013 BCSC 292; 2015 BCCA 19 — Lead counsel to a number of well servicing contractors in a long-standing industry-wide dispute involving the applicability of provincial sales tax.
- *TransAlta Corporation v. Canada*, 2012 FCA 20 — Appellate counsel to a major power company in its successful appeal relating to a taxpayer's right to allocate sale proceeds between asset classes on the sale of a business.
- *Fidelity Global Opportunities Fund v. Her Majesty the Queen*, 2010 TCC 108 — Prerequisites for valid notice of objection.

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blg.com

BLG Offices

Calgary
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal
1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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