

Tax Law

OUR SERVICES

Our seasoned tax professionals can provide you with advice and assistance in domestic and international transactions. We offer specialized services in corporate tax and estate planning, advising clients in domestic and international transactions. Our Tax Group is composed of over 60 professionals across Canada, including lawyers and Chartered Accountants. The tax team works on standalone tax mandates in addition to being trusted advisors to our Corporate Commercial lawyers. Our tax lawyers have a wide breadth of experience, both domestic and international, on all areas of tax law including inbound and outbound structuring, commodity taxation, litigation, investment funds, reorganisations and restructurings, insurance taxation, employee benefits and pensions, trust and estate litigation. Members of our Tax Group have served in government and private industry tax departments, are active in numerous professional organizations including the Canadian Tax Foundation, the International Fiscal Association, Society of Trust and Estate Practitioners, regularly make submissions to government on tax laws, and write and lecture on taxation matters.

PUBLICATIONS

Tax Law Bulletins

- ["Canadian FATCA and CRS Compliance Updates,"](#) December 2018.
- ["Important GST/HST Developments from 2018,"](#) December 2018.
- ["Time to Act Before Year End: Corporate RDTOH Planning Opportunities,"](#) December 2018.
- ["B.C.'s New Speculation and Vacancy Tax Receives Royal Assent,"](#) November 2018.
- ["Car Dealership's Sale of Insurance Products Held to be GST/HST Exempt,"](#) November 2018.
- ["Supreme Court of Canada Callidus Decision Provides Certainty to CRA Deemed Trust Rules,"](#) November 2018.
- ["CRA's Power to Compel Taxpayers to Disclose Uncertain Tax Positions Affirmed,"](#) November 2018.
- ["Supreme Court of Canada Slams the Door on CRA Challenge to Common Interest Privilege,"](#) October 2018.
- ["Taxpayer Wins Convincing Decision in Landmark Canadian Transfer Pricing Case,"](#) October 2018.
- ["Commercial Realities Shape the Interpretation of Tax Treaties,"](#) September 2018.
- ["BLG Lends Expertise to Canadian Chapter in New Taxand Guide,"](#) September 2018.
- ["Court Declares 10 Per Cent Limit on Political Activities by Charities Unconstitutional,"](#) August 2018.
- ["Federal Court of Appeal Confirms Tax Deductibility of Oversight Expenses in M&A Transactions,"](#) August 2018.
- ["Significant Changes to GST/HST Holding Company Rules,"](#) August 2018.

- ["Senate Passes Historic Cannabis Legislation Putting End to 95 Year Prohibition,"](#) June 2018.
- ["Senate passes Cannabis Act, but legal cannabis not a reality yet,"](#) June 2018.
- ["Update on the Enmax Case: A "reasonable" outcome?,"](#) May 2018.
- ["New Land Transfer Tax Regulations Enable Quarterly Reporting Periods for Certain Trust and Partnership Unit Trades,"](#) May 2018.
- ["Supreme Court of Canada to Rule on CRA Superpriorities,"](#) April 2018.
- ["Federal Court of Appeal Reaffirms the Validity of Transactional Common Interest Privilege,"](#) March 2018.
- ["Federal Budget 2018 — A Continued Focus on Fairness and the Middle Class,"](#) February 2018.
- ["Abuse" under the GAAR Examined in Recent Federal Court of Appeal Decision,"](#) February 2018.
- ["Federal Government Announces Greenhouse Gas Pollution Pricing Legislative and Regulatory Proposals,"](#) January 2018.
- ["Cross-Border Tax Issues: Withholding Obligations,"](#) January 2018.
- ["Don't Delay, Disclose Today: Substantial Changes to the Voluntary Disclosures Program to be effective March 1, 2018,"](#) January 2018.
- ["Top 10 Legal Risks for Business in 2018,"](#) January 2018.
- ["Alberta Court of Appeal denies equitable "Hail Mary" in Harvest Operations Corp. v. Attorney General of Canada,"](#) December 2017.
- ["Federal Government Partially Retreats from July 2017 Income Sprinkling Tax Proposals,"](#) December 2017.
- ["Federal Proposals for Cannabis Tax Released for Public Consultation,"](#) November 2017.
- ["Canada Revenue Agency Proposed Change to Tax Employee Benefits,"](#) November 2017.
- ["Impact of the Proposed Private Corporation Tax Changes,"](#) October 2017.
- ["BLG Adds to its Tax Practice,"](#) October 2017.
- ["CRA Defers Implementation Date for Application of Advantage Rules to Investment Management Fees,"](#) September 2017.
- ["The proposed new GST/HST definition of an "investment limited partnership" and what it may mean for your business,"](#) September 2017.
- ["New Land Transfer Tax Rules Proposed for Certain Trusts and Partnerships,"](#) August 2017.
- ["Take Advantage of the Existing Voluntary Disclosure Program While You Can!,"](#) July 2017.
- ["Measures Announced to Stop Tax Planning Strategies Involving Private Corporations,"](#) July 2017.
- ["Canada Revenue Agency Proposes Sweeping Changes to Voluntary Disclosures Program,"](#) June 2017.
- ["BLG Welcomes New Tax Partner,"](#) June 2017.

- "[Welcome Clarification for Plan Administrators on Pension Investment Restrictions](#)," May 2017.
- "[The 2017 Federal Budget: What Employers Need to Know](#)," April 2017.
- "[Budget 2017: What it Means to the Investment Management Industry](#)," April 2017.
- "[Saskatchewan PST Rate Increase](#)," March 2017.
- "[Federal Budget 2017 — A Focus on Innovation and Tax Fairness for the Middle Class](#)," March 2017.
- "[Law Commission of Ontario \("LCO"\) released its Final Report on Legal Capacity, Decision-making and Guardianship](#)," March 2017.
- "[Alberta Investor Tax Credit Opens for Business](#)," January 2017.
- "[CRA reviews application of "advantage rules" to investment management fees](#)," January 2017.
- "[Pension Risk Management: Income and Commodity Tax](#)," December 2016.
- "[Significant changes to the Land Transfer Tax Act](#)," November 2016.
- "[New Tax Convention Signed Between Canada and the State of Israel](#)," October 2016.
- "[No Need for Section 116 Clearance Certificate for Capital Distributions From An Estate to a U.S. Beneficiary](#)," October 2016.
- "[Paul Kvas v. The Queen, 2016 DTC 1169](#)," October 2016.
- "[Dividend Designation from a Trust – Timing \(T.I. 2016-0647621E5\)](#)," October 2016.
- "[Cash In Panama — A Ticking Time Bomb](#)," October 2016.
- "[New Principal Residence Exemption Rules](#)," October 2016.
- "[Ivan Cassell Limited \(Appellant\) v. Her Majesty the Queen \(Respondent\), 2016 DTC 1048](#)," October 2016.
- "[Univar Holdco Canada ULC V. Her Majesty The Queen, 2016 TCC 159](#)," September 2016.
- "[Ghislain Poulin And Herman Turgeon v. Her Majesty The Queen, 2016 DTC 1129](#)," September 2016.
- "[New Regulations Intended to Encourage Consolidation](#)," June 2016.
- "[The 'Panama Papers': What do they mean for you?](#)," May 2016.
- "[Details of the Alberta Carbon Levy announced](#)," April 2016.
- "[Federal Budget 2016 — A Focus on the Middle Class and Continued Scrutiny of Corporate Tax Avoidance](#)," March 2016.
- "[Pending stock option tax measures in the Federal budget: What to consider](#)," February 2016.

REPRESENTATIVE WORK

Corporate Tax

- Eldorado Gold Corporation, an international gold producer, in connection with its \$2.5 billion acquisition of European Goldfields Limited, by way of plan of arrangement.

- Pan American Silver Corporation, a Canadian silver mining company, in connection with its \$1.5 billion acquisition of Minefinders Corporation Limited, by way of plan of arrangement.
- Bonterra Energy Corp., in connection with the approximate \$1.4 billion combined arrangement with Spartan Oil Corp.

Commodity taxes and Customs Tariffs

- Assisted the Royal Canadian Mint in a tariff classification challenge against a CBSA ruling regarding the one cent coin.
- Assisted numerous companies with complex audits initiated by CBSA into issues such as tariff classifications, NAFTA rules of origin, transfer pricing and value for duty.

Estate & Trusts

- Acted for CIBC Trust Corporation as proposed co-guardian, in obtaining Court approval of a Management Plan in a guardianship of property application (*Abrams v. Abrams et al* [August 5, 2011] Court File No. 03-003/08 (O.S.C.J.), per Penny, J.)
- Successful constitutional challenge on behalf of Quebec common law spouse for right to support in case known as *Lola v. Eric*. (Droit de la famille – 102866, 2010 QCCA 1978; on appeal to Supreme Court of Canada)
- Represented trustees in a case on the law applicable to entitlement to accounting of Quebec trusts administered in Alberta of property application (*Abrams v. Abrams et al* [August 5, 2011] Court File No. 03-003/08 (O.S.C.J.), per Penny, J.)

Tax Litigation

- In *George Weston Limited v. Her Majesty the Queen*, 2015 TCC 42, BLG argued successfully that certain proceeds from the termination of cross currency basis swaps should be taxed on capital account notwithstanding a well-known CRA policy to the contrary
- In *American Income Life Insurance v. The Queen*, 2008 TCC 306, BLG argued successfully that a U.S. insurance company was not subject to tax on its Canadian business profits because it did not have a permanent establishment in Canada, within the meaning of the Canada-U.S. tax treaty
- In *Birchcliff Energy Ltd. v. The Queen*, 2012-1087(IT)G, the BLG team successfully compelled the Crown to provide greater disclosure in the pleadings involving the general anti-avoidance rule in the *Income Tax Act*, changing the law and significantly increasing the disclosure obligation of the government when it accuses taxpayers of “abusive” tax planning
- In *Ollenberger v. The Queen*, 2013 FCA 74, we successfully established that a start-up oil and gas company was carrying on an “active business” such that the taxpayer was entitled to a favourable tax treatment for an investment loss. This was an important precedent regarding the fundamental concept of when a business commences for tax purposes
- In *Kam v. The Queen*, 2013 TCC 78, BLG successfully represented parents, on a *pro bono* basis, who were reassessed by the CRA in connection with the tuition paid for their children, who were diagnosed with learning disabilities, to attend a specialized school. The reassessments were successfully overturned and the parents were allowed their deduction as originally claimed. This decision now stands as a precedent to many parents across Canada who incur significant costs related to children with learning disabilities

- In *Boardwalk Equities Inc.*, 2013 FCA 140; *Calgary Board of Education*, 2013 FCA 141, BLG argued a novel GST case that dealt with the taxation of various government subsidies provided in connection with electricity and natural gas purchases
- Successfully overturned a long standing CRA position under the resource allowance rules (*Canada v. 3850625 Canada Inc. (Fording Coal)*, 2011 FCA 117)
- Successfully overturned a "personal services business" reassessment (*Aniger Consulting Inc. v. Canada*, 2011 FCA 349)

RANKINGS & RECOGNITIONS

The Tax Group or its members are recognized in:

- In the 2019 (and since 2018) edition of *Chambers Canada — Canada's Leading Lawyers for Business*
- In the 2019 (and since 2017) edition of *The Legal 500 Canada*.
- In the 2018 edition of *The Best Lawyers in Canada*®.
- In the 2018 edition of *Chambers Global — The World's Leading Lawyers for Business*.
- In the 2017 edition of *International Tax Review's World Tax*.
- In the 2017 edition of *Canadian Legal Lexpert*® *Directory*.
- In the 2017 edition of *Lexpert Guide to the Leading US/Canada Cross-Border Corporate Lawyers in Canada*.
- In the 2016 edition of *The Lexpert*®/*American Lawyer Guide to the Leading 500 Lawyers in Canada*.
- In the 2016 edition of *Who's Who Legal — The International Who's Who of Business Lawyers*.
- In the 2016 edition of *Who's Who Legal — Canada*.