



## firm profile

McMillan is a modern and ambitious business law firm serving public, private and not-for-profit clients across key industries in Canada, the United States and internationally. With recognized expertise and acknowledged leadership in major business sectors, we provide solutions-oriented legal advice through our offices in Vancouver, Calgary, Toronto, Ottawa, Montréal and Hong Kong. Our firm values – respect, teamwork, commitment, client service and professional excellence – are at the heart of McMillan's commitment to serve our clients, our local communities and the legal profession. For more information, please visit our website at [www.mcmillan.ca](http://www.mcmillan.ca).

## contacts

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## sales and commodity taxation

### overview

Sales and commodity taxes are a significant source of revenue for Canada's federal and provincial governments. The imposition of such taxes can increase the cost of carrying on business. Understanding Canada's varied web of sales and commodity taxes, and developing an approach that maximizes profits while remaining in compliance with the law, frequently requires expert legal counsel.

McMillan's Tax Group is recognized as a leader in helping clients manage even the most complex sales and commodity tax challenges. We provide clients with pragmatic advice on matters relating to customs duties, harmonized sales tax (HST), goods and services tax (GST), Quebec sales tax, British Columbia provincial sales tax, federal excise tax and duties, provincial land transfer taxes, and other provincial taxes, such as gasoline, fuel and tobacco taxes.

We also help our clients minimize Canadian customs duties by providing advice on customs valuation, tariff classification, rules of origin, and NAFTA verification matters. We apply our expertise in pursuing domestic trade remedies for domestic and foreign producers, exporters, importers and other interested parties relating to all aspects of anti-dumping, subsidy, countervailing and safeguard proceedings.

In all matters, we focus our efforts on providing timely, practical and commercially-oriented advice. Our lawyers work regularly with manufacturers, retailers, distributors, financial service companies, importers, exporters, and other industry players to review contracts and provide compliance and planning guidance.

McMillan helps its clients navigate the complex world of sales and commodity taxation by:

- Assisting with GST/HST compliance measures and ruling requests, voluntary disclosures, audits, objections and appeals
- Advising on specialized tax legislation, such as the Excise Tax Act (Canada), and on special levies imposed by the federal and provincial governments
- Advising on the application of commodity-specific taxes
- Helping non-Canadian entities understand the impact of the federal GST/HST on their business operations in Canada

### representative transactions

- Offering legal tax planning and structuring advice in purchase and sale transactions to minimize commodity tax liabilities and costs;



## sales and commodity taxation

- Providing advice and guidance on commodity tax compliance;
- Advising clients on how to minimize commodity tax assessment risk;
- Preparing and filing voluntary disclosures to avoid penalties, fines and prosecutions;
- Advising non-residents of Canada or particular provinces about commodity tax registration and compliance obligations;
- Preparing tax ruling and interpretation requests;
- Providing assistance to clients during commodity tax and customs audits and NAFTA, other origin, tariff classification and value for duty verifications;
- Representing clients prepare and participate in administrative appeals of assessments with the Canada Revenue Agency (CRA), the Canada Border Services Agency (CBSA) and provincial tax authorities (e.g., notices of objection and requests for redetermination);
- Helping clients in judicial appeals of tax assessments before the Tax Court of Canada, the Federal Court of Canada, the Federal Court of Appeal, the Supreme Court of Canada and provincial courts;
- Negotiating with the tax and customs collections branches of the CRA, the CBSA and provincial tax authorities and advising client on collections matters;
- Providing legal advice concerning commodity tax and customs priorities in the context of *Companies' Creditors Arrangement Act (CCAA)* and *Bankruptcy and Insolvency Act* proceedings;
- Advising corporate directors and officers concerning their duties and obligations to ensure their companies comply with tax and customs laws, and disputing actual and proposed tax and customs assessments imposed, or to be imposed, derivatively against directors and officers;
- Communicating with the Department of Finance, the CRA, the CBSA and provincial governments regarding changes to commodity tax and customs laws, regulations and administrative practice;
- Identified substantial duty refund claims for, and savings from, duties paid on royalties and assisting clients to obtain them;
- Successful appeal of assessment of customs duties and seizure of goods for alleged under-declarations of customs valuation arising from transactions between a foreign supplier/exporter and a related Canadian importer/distributor of electronic products;



## sales and commodity taxation

- Voluntary disclosure to CBSA on behalf of a Canadian electronics importer and distributor to rectify preferential NAFTA tariff treatment coding and origin errors to obtain waiver of significant penalties;
- Prepared submission to CBSA on behalf of a Canadian electronics importer and distributor acquiring products from a related foreign supplier/exporter in regard to a Canadian customs valuation compliance verification audit;
- Appealed a CBSA (predecessor of CBSA) seizure of a boat for alleged failure to report the imported boat;
- Advised a Canadian motor vehicle manufacturer on applicable rules of origin for preferential tariff (duty) treatment under the North American Free Trade Agreement as well as the Canada-Chile and Canada-Costa Rica Free Trade Agreements for parts acquired, and implemented procedures with their suppliers to ensure compliance;
- Prepared opinion on the availability of "container banks" for streamlined customs reporting and accounting of reusable containers used in international transactions of automotive parts, and on the availability of relief from duties and GST on the import of the reusable containers;
- Reviewed customs, trade and transfer pricing procedures for a Canadian motor vehicle parts manufacturer and prepare report with advice and recommendations;
- Advising a Canadian importer of paper products which is part of a large multinational company on a CBSA customs verification audit.