Ryan Tax Review

Property Taxes and Affordable Housing

Can Property Assessment and Taxation Be Part of the Solution?

The Canada Mortgage and Housing Corporation (CMHC) defines affordable housing as permanent living options costing less than 30% of a household's before-tax income.[1] Affordable housing provides an opportunity for Canadians to access the housing market by respecting the financial limitations which serve as an impediment to many.

The number of Canadians in need of affordable housing continues to climb, with various organizations pegging the number to be in the millions, and few question the need to create more affordable housing options. Indeed, addressing this issue was a critical part of the federal government's 2023 Fall Economic Statement, with the announced Canada Housing Action Plan outlining several strategies aimed at increasing housing supply. In addition, the Affordable Housing Fund will receive an influx of $1 billion over three years to support the construction of more than 7,000 units.[2] Beyond the requirement for more funding, another important question is whether enough is being done from a taxation standpoint to support such aggressive targets.

Background

In its most effective form, property valuation is objective. It is a data-driven exercise aimed at establishing accurate and equitable representations of market value. In contrast, property taxation is most effective when it reflects the strategic vision of the taxing authority and, by extension, the electorate. Whereas property taxation is a mechanism of political will, valuation is the exercise of professional expertise. By changing valuation parameters applied to two similar properties, one can achieve different estimates of market value. Conversely, by changing the taxation structure, two properties with the same market value can end up having different tax liabilities. Administrators and elected officials should consider whether their current property valuation and tax systems—the various approaches, classes, rates, and rebates—reflect and support their strategic targets.

Using tax policy as a mechanism to adjust the tax liability between two properties of equal value is nothing new; property tax mitigation (or elimination in certain cases) for not-for-profit entities and religious institutions, among others, is commonplace across Canada. In general, property tax reductions or exemptions are often used when:

- A property or use benefits the wider community;
- The unadjusted tax liability proves to be an impediment to the success of a specific use which is desired by the wider community; or

[1] "About Affordable Housing in Canada," Canada Mortgage and Housing Corporation, https://www.cmhc-schl.gc.ca/professionals/industry-innovation-and-leadership/industry-expertise/affordable-housing/about-affordable-housing/affordable-housing-in-canada (June 20, 2024).

[2] "Canada's Housing Action Plan," Government of Canada, https://www.canada.ca/en/department-finance/news/2023/11/canadas-housing-action-plan.html (June 20, 2024).

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- There is desire to incentivize growth in a specific sector (identified by geography, property type, business type, or density, to name a few).

Current State

An oft-repeated valuation approach to affordable housing is to disregard the actual rents paid for this type of property and utilize rents achieved in the wider housing market instead. This is understandable because valuation and/or legislative standards typically require the use of open market or "unencumbered" indicators. Whether through a contractual obligation or by choice, a property owner renting a unit as affordable housing is not renting out the unit at the rate the open market can bear. As such, it can be suggested that the rents are not reflective of market value. Consequently, in some jurisdictions, there is no differentiation between the valuation parameters or approaches utilized for a property rented at market value and one providing affordable housing. Thus, where two identical buildings exist, but one serves as affordable housing, there are jurisdictions in Canada where both properties will have the same tax liability.

Property taxes are an inescapable cost for most businesses operating in Canada. While not-for-profits operating affordable housing assets are often exempt from this type of taxation, many other entities are not. If the assessment of affordable housing disregards the actual capped rents charged and uses open market leases instead, then affordable housing pays far more for property taxes as a percentage of total rent than comparable open market units. This would appear to contradict the fundamental principle of property assessment that the value of real property is a proxy for the taxpayer's ability to pay tax. Essentially, where affordable housing is assessed and taxed the same as market-rate housing, the tenants in affordable housing are assumed to be able to pay just as much as those in open market rental units, or it is assumed that the owners of affordable housing are willing and able to pay the same level of property taxes as owners of other types of housing earning far higher levels of rental income. The capped rents and disproportionately high tax burdens serve as a deterrent for developers to create more affordable housing, which in turn increases the cost and/or decreases the availability of housing for those who can least afford it.

Regardless of the rents used in deriving a property's value, the underlying expectation is that the assessment will reflect what the property would sell for on the open market. Where sales data supports the position that affordable housing is worth the same as market housing, the solution rests with the taxation of these assets. However, if the data does not support equitable treatment between the two property types, or there is an absence of data, then the solution may well rest with the valuation approach itself.

The Housing Continuum

Reframing Affordable Housing

To understand the opportunities that exist for supporting affordable housing from a property valuation perspective, one must reflect on the idea of "market value." More specifically, it is worth investigating if the players in the market for affordable housing are the same as those involved in market housing, which are discrete elements on the housing continuum. Whether intentional or not, by using the same parameters (e.g., rents, vacancy rates, capitalization rates, sales indicators, etc.), valuators put affordable housing properties and market rent properties in the same "market" for assessment purposes.

In Alberta, households on affordable housing waitlists are prioritized according to the province's Social Housing Accommodation Regulations (SHAR), which set out a scoring system according to need.[3] Similar systems exist in other areas of the country based on the CMHC's definition of affordable housing. The ability to access affordable housing is contingent on income and other factors; not everyone meets the criteria, making the "market" for this housing sector distinct. Conversely, market housing is open to anyone who can afford it, irrespective of their income level. Owners and operators of affordable housing can differ as well. Affordable housing properties often provide additional services and programs to support their tenants which are not typically available in market housing. The different properties serve different groups with different needs, so it is unsurprising that there is market-specific expertise which extends to site operations. Affordable housing rents are not "below typical" or "non-market"— these terms presuppose that affordable and market housing units compete directly with one another. Whether we are referring to the operators or tenants, we are undoubtedly referring to distinct markets, each operating within the range of housing options available in Canada.

Opportunities Exist

Acknowledging this distinction and adjusting the valuation and/or taxation approaches on affordable housing can be part of

[3] "Affordable Housing Programs," Government of Alberta, https://www.alberta.ca/affordable-housing-programs (June 20, 2024).

possible solutions to support more development. For example, Ontario has communicated an intent to explore changes to its system. In the government's 2022-2023 Housing Supply Action Plan, it was stated:

> *"Property tax assessments for affordable rental housing are established using the same approach as regular market units. We will explore potential refinements to the assessment methodology so that it better reflects the reduced rents that affordable housing providers receive."* [4]

In other areas, such as British Columbia, tax incentives exist for "social revitalizations" (under which affordable housing is categorized) that are permitted through the *Community Charter*.[5] It is clear that when the issues are identified and the political will exists to tackle them, various remedies can be made available to help support affordable housing development through property valuation and taxation.

Final Thoughts

Current availability and the pace of development for affordable housing are below the country's needs, and it will take a concerted effort from all stakeholders to achieve the desired targets. As evidenced by the municipalities that now require for-profit developers to set aside units for affordable housing, we have arrived at a situation where it will take more than not-for-profit entities and government funding to bridge the housing gap. If there is serious intent on meeting our affordable housing needs, then every opportunity to support these projects should be explored, including how such properties are valued and taxed. Governments at all levels should look at further aligning their tax policy with their affordable housing strategies.

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[4] "More Homes Built Faster," Government of Ontario, https://www.ontario.ca/page/more-homes-built-faster (May 1, 2024).

[5] "Incentives for Housing," Government of British Columbia, https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/policy-and-planning-tools-for-housing/incentives-for-housing (June 20, 2024).

Potential SR&ED Tax Credit Changes on the Way?

The Scientific Research and Experimental Development (SR&ED) tax credit is an incentive program administered by the Canada Revenue Agency (CRA) that provides over $3 billion annually to Canadian businesses for work done to resolve technological challenges and improve their technological knowledge base.

A recent study and report by The Logic[1] found that the SR&ED tax credit, a prominent program in Canadian research and development (R&D) funding, continues to disproportionately benefit large companies, although the report also indicates a gradual narrowing of the gap between large and small enterprises.

Persistent Disparities

While the SR&ED program aims to incentivize innovation across all businesses, the data in The Logic's analysis reveals that, from 2013 to 2017, large companies accounted for a significant share of the tax credits claimed, with many of the recipients having their headquarters outside of Canada.

As noted in The Logic's report, critics, including leading entrepreneurs in Canada, have long complained that the SR&ED program favors big foreign companies over domestic ones. Indeed, the federal government has acknowledged such concerns and initiated a review of the program, which underwent its last overhaul in 2012.

Through the SR&ED program, companies can claim a corporate income tax credit on expenses related to R&D, including researchers' wages and materials. The program offers a 35% non-refundable tax credit on up to $3 million of eligible expenses for Canadian-controlled Private Corporations, with a 15% credit, without a spending cap, available to public and foreign companies.

Recent Shift in Beneficiaries

New data from the Canada Revenue Agency (CRA) obtained by The Logic unveils a change in the types of companies benefitting most from SR&ED, although large companies still appear to receive a disproportionate share of the program's total funding value. According to the data, corporations with a gross income of at least $250 million received an average total of about $1.1 billion in SR&ED tax credits each year from 2018 to 2022. However, this marks a decline from the average total of $1.6 billion in each of the preceding five years. The data also shows that, during 2021 and 2022, large companies received an average total of less than $1 billion annually in SR&ED tax credits. In contrast, small and medium-sized businesses saw a slight increase, collecting an average total of

[1] McIntyre, Catherine, "Flagship R&D tax credit still rewards large firms disproportionately, though new data shows gap is narrowing," The Logic, February 15, 2024, https://thelogic.co.

$2.4 billion (up from $2.2 billion) over the last five years.

David Douglas, Principal and leader of Ryan's SR&ED practice, noted in The Logic's report that the recent shift in SR&ED tax credit use is attributable to market dynamics and other government initiatives, rather than changes to the program itself—a logical conclusion, since there haven't been any significant changes in recent years. According to Douglas, the noted increase in claims received by large corporations in 2020,

> *"… was in part because CRA was pushing through a backlog of credits, but also because of corporate windfalls like Ottawa's emergency wage subsidy program. That government support, coupled with historically low interest rates and a robust investment landscape, enticed many large companies to spend big on research and development."*

Douglas goes on to suggest that rising interest rates and the end of pandemic relief programs curtailed spending on R&D by large businesses in 2021 and 2022, leading to the noted drop in SR&ED claims.

However, even given the recent trend, it can be argued that large corporations still receive a disproportionate share of SR&ED tax credit funding, due to the large number of claims submitted by small businesses. For example, in the data noted above, almost 13,000 claims were submitted by small businesses in 2022, while large businesses submitted about 500.

The Need for Change

Critics of the existing SR&ED tax credit argue that the program needs a major overhaul to ensure it genuinely benefits Canadian companies and fosters economic growth in this country. Concerns range from relatively low spending on R&D in Canada relative to other G7 countries—The Logic report cites Organisation for Economic Co-operation and Development (OECD) data showing that Canada ranks sixth in R&D spending—to the overall efficiency of the program in promoting R&D spending in Canada.

Despite the significant funds allocated to the SR&ED program, there is a consensus that more needs to be done to enhance the effectiveness of these investments, including measures to ensure that innovation and the commercialization of any resulting intellectual property takes place in Canada, rather than merely subsidizing multinationals for the sake of job creation.

Ongoing Review

Ottawa has heard the concerns and has embarked on a program review to modernize the SR&ED tax credit and ensure the program aligns with its innovation and commercialization economic strategy. On January 1, 2024, the federal government launched a first round of consultations to explore cost-neutral ways to enhance the SR&ED program. Those consultations closed on April 15, and this year's budget announced a second round of consultations, which closed on May 27, to hear further views on certain topics, including how Canadian public companies might be made eligible for the enhanced SR&ED tax credit. Providing Canadian public companies access to the enhanced credit, if enacted, would represent a significant increase in the value of the credit and improve cash flow for eligible organizations.

The federal government has already demonstrated a willingness to bend on its cost-neutral approach to SR&ED program reform, allocating an additional $600 million in program funding over four years, starting in 2025-26, in this year's budget. Through the consultation and review process, the government also hopes to identify ways to ensure the retention of intellectual property in Canada and support innovative businesses in remaining Canadian.

Parallel to the SR&ED program review, the federal government is also investigating the potential in creating a patent box regime. In a typical patent box scheme, income from certain underlying intellectual property is segregated and taxed at a favourable rate, which is intended to encourage domestic commercialization of intellectual property resulting from Canadian R&D.

According to Douglas,

> *"Stepping back and looking at Canada's emerging industrial policy, including various direct and indirect incentives, this year's budget provides the skeleton of a future framework that has some logic to it. It is expected that the implementation of rules to meet international Base Erosion and Profit Shifting (BEPS) Pillar 2 requirements will likely increase tax revenues by rendering structures that would place intellectual property in a low or no tax jurisdiction invalid. These revenues could be channeled to further incentivize research and development in Canada at relatively low levels of taxation, while keeping the intellectual property and commercialization of the technology here. Investment tax credit rates could be adjusted higher or lower, depending on where the intellectual property and ultimate taxation resides, to retain wealth creation for Canadians in the long run."*

This approach would preserve the cost neutrality of Canada's industrial policy, while addressing Canada's well-studied challenge of achieving global commercial scale from within.

More Innovation Funding

In the dynamic landscape of research and development funding, SR&ED stands as a catalyst, speeding up the course of innovation in Canada. While recent data sheds light on challenges within the program, it remains a driving force for technological advancement and economic growth.

For those exploring alternatives, the Industrial Research Assistance Program (IRAP) offers a viable option, as do many other diverse funding opportunities. For further information on the benefits and availability of these programs, please reach out to your Ryan representative, or check out the Mentor Works, A Ryan Company, website at: https://web.mentorworks.ca/irap-vs-sred.

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RYAN MARKET TRENDS

Tips, Traps and Tidbits from Ryan Tax Experts in the Field

CARM Customs Project Delayed Again

The Canada Border Services Agency (CBSA) has announced that full implementation of the second phase of its long-awaited CBSA Assessment and Revenue Management (CARM) project will be delayed until October 2024.

CARM is a digital initiative to modernize and streamline the accounting process for commercial imports into Canada, promoting improved compliance with customs regulations and providing importers with self-service access to various services through an online electronic platform. The project launched internally at the CBSA in May. However, in anticipation of a potential job action by the Public Service Alliance of Canada (which has since been resolved), the CBSA delayed implementation of the second phase of CARM for trade chain partners – the second such deferral in less than a year. The first phase of the project was launched almost three years ago.

On the positive side, the latest delay should provide importers and other trade partners more time to prepare for the upcoming change by setting up online access and updating import reporting systems.

If you have any questions or concerns about the CARM project and how these changes might impact your business, please contact Ryan's Customs Duty team.

Upcoming Property Tax Appeal Deadlines

Property owners are reminded that property tax assessment appeal deadlines are quickly approaching in a few jurisdictions, as outlined below.

Manitoba

While the appeal deadline for non-residential property assessments in Winnipeg was July 2, Manitoba staggers its assessment mailings for all other jurisdictions, resulting in the appeal deadlines for many rural municipalities falling later in the year. However, with only a brief 30-day window to review your assessments in the province, those deadlines can approach quickly.

Marking the start of a new valuation cycle, this year's assessment will serve as the basis for 2025 and 2026 property taxes. Preliminary figures indicate that the retail and industrial sectors have seen the most significant impact, with some properties increasing 20% to 50% in comparison to previous cycle values.

Manitoba differs from most Canadian jurisdictions in that, throughout the property tax appeal process, the burden of proof regarding the assessed value lies with the assessor. This can be a significant advantage to property owners when challenging an assessment.

Prince Edward Island

In Prince Edward Island, property tax assessment notices for the 2024 assessment cycle were sent out in May, with a valuation date of January 1, 2024. Reassessments occur annually in Prince Edward Island, and the appeal deadline is 90 days from the mailing date of the assessment notice.

Newfoundland and Labrador

Newfoundland and Labrador entered its 2025 property tax assessment cycle in June, based on a valuation date of January 1, 2022. Property tax assessments for both 2024 and 2025 in St. John's and for 2025 in all other municipalities have been mailed out, and taxpayers may appeal their property assessment within 60 days of the notice issue date, resulting in appeal deadlines in July or August.

Please reach out to the Ryan Property Tax team if you have any questions about Canadian property tax assessments.

For more information on these and other recent tax developments, please visit our [News & Insights] page or contact the Ryan *Tax*Direct® line at taxdirect@ryan.com or 1.800.667.1600.

Input Tax Credit Documentary Requirements in a Paperless World

Do We See Them the Same Way?

When it comes to documentation required to support GST/HST input tax credits (ITCs), we have become used to seeing all the prescribed information to support the amount of tax paid on one document and thinking this to be the rule. It is a well-known fact that the GST/HST system permits registered recipients to recover the tax paid on their purchases in approved circumstances by claiming ITCs on their returns. However, while the required documentation that registrants must obtain to support their ITC claims will generally be found on the invoice issued by their supplier, this is not always the case.

Many suppliers will indicate their GST/HST registration number on invoices, but this is not a requirement, and there are situations where it may not be possible to provide all the prescribed information in one document due to how a particular business operates. In addition, as more businesses operate in a paperless environment, many organizations—and their auditors—are finding challenges in the way required supporting documentation is obtained and stored. This issue is highlighted in *CFI Funding Trust v. The Queen*,[1] a recent case in which the required supporting documentation, which was stored electronically, was not accepted by the Canada Revenue Agency (CRA) because it was not in the expected form. As a result, ITCs to the tune of $42 million claimed over a five-year period were denied.

Background

CFI Funding Trust (CFI), a trust established in Alberta, carried on a business of securitizing automobile dealer leases. CFI entered into substantially identical concurrent motor vehicle lease agreements, referred to as designated eligible leases, with fifteen dealers for motor vehicles that were leased to the dealer's customers. The lease between the dealer and their customer is referred to as the initial lease. Essentially, the dealers transferred their rights of possession to the leased vehicles to CFI, with CFI required to prepay a portion of the concurrent leases to the dealers. With regards to the tax, CFI would offset the GST/HST paid for the leases with any GST/HST collected on administration fees charged the dealers.

CFI used a third party, Corpfinance International Limited ("Corpfinance"), to provide administrative and management services in relation to its securitization activities, including maintaining accounts and records for all concurrent leases. Rather than the dealers preparing supporting documentation for the supplies under the concurrent leases, Corpfinance prepared various spreadsheets to be used by CFI as supporting documentation for claiming ITCs on the GST/HST applicable to the concurrent leases. In addition, the supplier's (i.e., the dealer's) GST/HST registration numbers were provided in the initial lease agreements, not the concurrent leases. Corpfinance saved all this information in an electronic format on behalf of CFI.

The Documentary Requirements

Specifically, paragraph 169(4)(a) of the *Excise Tax Act* (ETA) outlines the requirements for claiming ITCs as follows:

> *"(4) Required documentation*
>
> *A registrant may not claim an input tax credit for a reporting period unless, before filing the return in which the credit is claimed,*
>
> *(a) the registrant has obtained sufficient evidence in such form containing such information as will enable the amount of the input tax credit to be determined, including any such information as may be prescribed;. . ."*

Once a taxpayer has obtained the necessary documentation, assuming the time limitations have not expired, ITCs may be claimed. The required documentation, as prescribed by the Input Tax Credit Information (GST/HST) Regulations (the "Regulations"), includes the following:

For all purchases:

- The name of the supplier to verify that GST/HST is being charged by a registrant;
- Invoice date to determine the period within which an ITC may be claimed; and
- Total amount payable to identify the level of documentation required.

For purchases over $100 and less than $500, the requirements noted above and:

- The supplier's GST/HST registration number to ensure tax was paid to a registrant; and
- The amount of tax paid in relation to the purchase, or an indication that the price is GST/HST-included and the rate at which it is included.

For purchases $500 or higher, all the above requirements and:

- A description of the property or service being supplied to ensure that ITCs are claimed on eligible expenses and to determine whether tax was properly charged on the supply;
- The name of the recipient to identify who is entitled to the ITC; and

[1] *CFI Funding Trust v. The Queen*, 2022 TCC 60 (CanLII).

- The terms of payment, which may affect the tax liability or its timing.

In addition to specifying the required documentation to support an ITC claim, the Regulations define "supporting documentation" to include:

> *"(a) an invoice,*
>
> *(b) a receipt,*
>
> *(c) a credit-card receipt,*
>
> *(d) a debit note,*
>
> *(e) a book or ledger of account,*
>
> *(f) a written contract or agreement,*
>
> *(g) any record contained in a computerized or electronic retrieval or data storage system, and*
>
> *(h) any other document validly issued or signed by a registrant in respect of a supply made by the registrant in respect of which there is tax paid or payable;…"*

Subsection 169(4) of the ETA provides that the registrant must obtain the prescribed information in a "form" that will allow the ITCs to be determined. As the Tax Court of Canada (TCC) would eventually find, "How that information is obtained does not matter. It may be obtained through oral or electronic communication. In addition, the information may be obtained by the recipient from […] other sources that contain the prescribed information." Indeed, the definition of supporting documentation is quite broad.

At an annual GST/HST meeting with the Canadian Bar Association Commodity Tax section in March 2005, the CRA endorsed reverse invoicing with the following comment:

> In order to claim an ITC, the documentary requirements in subsection 169(4) should normally be met…
>
> 1. The CRA accepts that in certain circumstances, with the agreement of both parties, and where there is sufficient information to verify the accuracy of the documentation, <u>the recipient may prepare the documentation</u>. Provided the documentation complies with the documentary requirements and all other requirements for claiming an ITC are met, an ITC may be claimed. The supplier is also required to have sufficient documentation to enable the CRA to determine the supplier's liabilities and obligations for GST/HST.
> 2. The ITC documentary requirements would also be satisfied where there is no dispute between the parties to the transaction and the recipient obtains the missing information either by telephone or in writing and then transcribes the missing information on to the document provided by the supplier. If the missing information is provided in writing, the recipient should also retain that document.
> 3. The ITC information requirements may be found in <u>more than one document</u> as long as together the documents meet all of the prescribed requirements.[2] [<u>Emphasis added</u>.]

The CRA's comments concerning the ITC documentary requirements and reverse invoicing are worth considering when analyzing if a taxpayer has met the documentary requirements in support of an ITC claim.

Analysis

When the CRA first questioned CFI about its ITC claims during an audit, it considered the supply from the dealers to CFI to be an exempt financial service and denied the ITCs, asserting that no GST/HST was payable in relation to the prepaid rents under the concurrent leases. CFI objected to the resulting assessment on the basis that the transactions under the concurrent leases were taxable supplies and, as a result, it was entitled to claim ITCs for the tax paid on the lease payments made to the dealers. The CRA's Appeals Division ultimately accepted that the supplies in question were taxable, opening up entitlement to the ITCs. However, the assessment was upheld on the basis that CFI's documentation for the ITC claims was insufficient and did not satisfy all the conditions under subsection 169(4) of the ETA. The Minister conceded that the GST/HST paid to Corpfinance in relation to the administrative services provided was eligible for ITCs, making the sole issue in dispute whether the evidence showed that CFI satisfied the documentary requirements mandated under subsection 169(4) of the ETA and the Regulations.

The Minister took the position that CFI failed to meet the ITC documentary requirements, referencing paragraph (h) of the supporting documentation definition in the Regulations, which reads "any other document validly issued or signed by a registrant […]," and asserting that the supporting documents presented by CFI must either originate from or be signed by the dealers. CFI's documentary evidence was, in part, comprised of various spreadsheets prepared by its administrative agent, Corpfinance, rather than the dealers. CFI countered that the definition relied on by the Minister only requires that a document be issued or signed by a registered supplier when it does not fit within the preamble to that definition or fall within one of the document types listed in paragraphs (a) to (g) (e.g., an invoice, receipt, or contract).

CFI further argued that the prescribed information maintained in a digital form on the recipient's server qualifies as valid supporting documentation under paragraph (g). Interestingly, on this point, the TCC distinguished CFI's situation from that of other taxpayers in jurisprudence relied on by the Minister [which did not deal with the interpretation of paragraph (g)] and found that "Information on a server is not a document that can be signed or authorized by a supplier. Rather, it represents information obtained by the recipient and stored on a server to allow this information to be consulted by the CRA on an audit of an ITC claim."

The TCC also referred to the CRA's public comments on reverse invoicing noted above, where the CRA took the position that the prescribed information as set out in the Regulations may be found in more than one document. In particular, Justice Hogan commented that the CRA uses these published interpretations to inform taxpayers about the law and promote compliance, noting that it is not good practice for the CRA to contradict its own published positions simply because it might be convenient in a particular case.

[2] David Sherman, "169(4) Input Tax Credits - Required Documentation," Taxnet Pro (online) (last modified April 30, 2022).

Conclusion

After weighing all the arguments, the TCC found that the Regulations do not set out a general requirement for all supporting documentation to be issued or signed by a registered supplier. This requirement is only applicable where the document type does not fit into any of paragraphs (a) to (g) or fall within the meaning of "form" as set out in the preamble to the definition. Furthermore, it would be inappropriate to add more meaning to the words used in the legislation where the provisions are clearly stated. Ultimately, Justice Hogan concluded that information stored in a registrant's computer server qualifies as supporting documentation for ITC purposes, and CFIs appeal was allowed. The TCC also noted that, since the definition of supporting documentation uses the term "includes" before listing the acceptable forms of documentation, it would be a mistake to apply the list in a restrictive manner.

Given the decision in this case, it is safe to say that, where a business obtains the necessary information and stores it electronically in its records prior to making an ITC claim, it will satisfy the documentary requirements. This outcome provides additional clarity, for both taxpayers and the CRA, concerning ITC documentation and its forms, where it can be stored, and the fact that it may be found in more than one document.

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