

CERTIFIED SPECIALIST PROGRAM

Standards for Certification

Taxation Law

Definition of Taxation Law Specialty

1. The practice of Taxation Law encompasses the provision of legal advice and representation of clients relating to the interpretation and application of federal and Ontario statutory and regulatory rules through which governments impose taxes on individuals and entities.
2. The practice of Taxation Law is the practice of law including: Taxation Law: Business Transactions, Taxation Law: Private Clients, Taxation Law: GST/HST and Sales Taxation; and Taxation Law: Litigation. Consequently, there are four categories of taxation law contained in this standards of certification:

Part I – The practice of **Taxation Law: Business Transactions**, which relates to the application of income tax to corporations, reorganizations, mergers and acquisitions, divestitures, securities instruments, financing, and public and private companies.

Part II – The practice of **Taxation Law: Private Clients**, which relates to the application of income tax to individuals, trusts and estates, succession and philanthropic planning, post mortem planning, and owner-managed businesses.

Part III – The practice of **Taxation Law: GST/HST and Sales Taxation**, which relates to sales taxes, including GST/HST, RST, and federal/Ontario taxes with respect to specified goods.

Part IV – The practice of **Taxation Law: Litigation**, which is the practice of resolving tax law disputes, including audit assistance, objections and appeals, and litigation in federal and Ontario courts.

Designation

3. An applicant who is certified as a specialist in taxation law may be identified as a Certified Specialist (Taxation Law).

Achieving Specialist Certification in Taxation Law

4. Applicants must comply with the requirements for certification set out in the Policies Governing the Law Society's Certified Specialist Program ("Policies"), particularly those relating to:
 - Minimum Years of Practice and Recent Experience;
 - Substantial Involvement in the Specialty Area;
 - Professional Development;
 - References;
 - Professional Standards; and
 - Application Fee.
5. Applicants must satisfy the following requirements in order to demonstrate their substantial involvement in taxation law:
 - a) averaged over the 5 years of their recent experience, applicants will have devoted a minimum of 30% of their practice concentration to taxation law; and
 - b) during the 5 years of their recent experience, applicants will have attained mastery of substantive law, practices and procedures in the area, and comply with the Taxation Law Experience requirements set out below.

6. In the event that applicants do not entirely meet the experience requirements prescribed in one of the four routes set out in this standard, they may apply to the Society for consideration of their individual circumstances or their related (non-practice) skills. Consideration will be given in exceptional circumstances where applicants have:
- limited their practice in recent years to a particular area of taxation law or have been involved in matters of extraordinary length or complexity; or
 - engaged in advanced course work or performed related activities such as teaching, authoring books or articles for publication, completing post-graduate or other studies, participating in the development and/or presentation of professional development programs, research, participating in the policy development process, drafting legislation and/or instruments, participating as active members on boards or tribunals, or on the executive of any organization related to taxation law or any other experience that applicants consider relevant to their application.
- Applicants applying for consideration under this paragraph must, in addition to the brief description of their practice required pursuant to paragraph 7, include with their application:
- a detailed description of their individual circumstances or related (non-practice) skills; and
 - references from the institutions or organizations from which their experience is drawn, references from peers, samples of writing and/or research, and a complete list of publications.
7. All applicants must include a brief description (no more than 100 words) of the nature of their practice in relation to the specialty area.

Taxation Law Experience

8. During the 5 years of their recent experience applicants must have demonstrated mastery of complex matters with respect to one of the following four (4) routes:
- Route 1 (Business Transactions):** Applicants whose taxation law practice primarily relates to the application of income tax to corporations, reorganizations, mergers and acquisitions, divestitures, securities instruments, and financing, involving business entities must meet the requirements in Part I.
- Route 2 (Private Clients):** Applicants whose taxation law practice primarily relates to the application of income tax to individuals, trusts and estates, succession and philanthropic planning, and owner-managed businesses must meet the requirements in Part II.
- Route 3 (GST/HST and Sales Taxation):** Applicants whose taxation law practice primarily relates to sales taxes, including GST/HST, RST, and federal/Ontario taxes with respect to specified goods must meet the requirements in Part III.
- Route 4 (Litigation):** Applicants whose taxation law practice relates to the resolution of tax law disputes, including audit assistance, objections and appeals and litigation in federal and Ontario courts must meet the requirements in Part IV.
9. Applicants are asked to place a check mark (✓) next to the tasks they are selecting from the categories below to demonstrate their taxation law experience and include the Standards with their application package, along with any supplementary information required in the Standards.
10. Applicants who are applying under Parts I, II, or III must provide with their application a complete outline (in table format) of their taxation law experience, which was performed as a lead counsel/primary tax lawyer during the 5 years of recent experience. Applicants applying under Part IV must include a complete outline (in table format) of their tribunal hearing, trial, appeal and arbitration experience as counsel during the 5 years of recent experience. If the number of matters identified during the applicant's recent experience is limited, applicants are also encouraged to complete this table outlining their experience over the last 10 years. There is an expectation that an applicant will have had significant

trial and/or hearing experience during this period. The number of trials and/or hearings is not determinative and due regard is given to the complexity of the issues before the court and/or tribunal. If specific trial and/or hearing experience is absent, there may be special circumstances that warrant consideration. The information that is submitted must be presented in a manner that is consistent with the ethical obligation of confidentiality and the law of privilege. The information presented should include:

- a) General Description of Matter, to include:
 - i. Year matter commenced;
 - ii. Issues involved;
 - iii. Interim steps;
 - iv. Complexity;
 - v. Description of party represented;
 - vi. Type(s) of proceeding (application, claim, hearing, arbitration etc.), (Part IV applicants only);
 - vii. Citation, reported or unreported, if available (Part IV applicants only);
 - viii. Name of court or tribunal (Part IV applicants only)
 - ix. Synopsis of how matter resolved or disposed; and
 - x. Length of time it took to resolve the matter.
11. It is recognized that in some areas of the province certain matters are more prevalent than others. Applicants whose taxation law practice may comprise experience contained in one or more of the routes set out above, but who do not have sufficient experience to fully complete the requirements in either Parts I, II, III or IV may apply to the Society for consideration of their individual experiences by using the process described in paragraph 6 of this standard.

Professional Development

12. Applicants must attest to the completion of the professional development requirements. The requirements are:
- a) not less than 50 hours of self-study annually; and
 - b) not less than 12 hours of professional development, in the 2 years immediately preceding the date of application date and any other year within the 5 years of recent experience.

The 12-hour professional development requirement may be met through participation at CLE programs related to the specialty area or through alternative methods such as, but not limited to:

- a) teaching or being a guest lecturer on a course in the specialty area;
- b) writing and editing of published books or articles relating to the specialty area;
- c) graduate or post-graduate studies in the specialty area;
- d) involvement in the development and/or presentation of professional development programs related to the specialty area; and
- e) involvement in the development of policy related to the specialty area.

References

13. Applicants must submit four (4) references from individuals currently licensed to practice law in Ontario who have direct knowledge of the applicant's work in the specialty area in the 5 years of the applicant's recent experience and can attest to the applicant's competent performance of the tasks outlined under Taxation Law Experience. Applicants must provide to the referees a copy of the completed Standards to let them know which categories they have selected to demonstrate their experience.

14. Applicants should not include as reference: judges, partners, associates, co-workers, employers, employees, relatives, members of the Certified Specialist Board, benchers or employees of the Society.
15. The Statements of Reference must be submitted with the application to the Society in confidential envelopes which have been sealed, signed and dated by the referees. Envelopes which have been opened or appear to have been tampered with will not be accepted. Reference forms may also be emailed directly to the Certified Specialist Program by the referee at CertSpec@lso.ca.

Application Assessment

16. The Society will consider the totality of an applicant's practice in the specialty area, the applicant's professional development report, and references.
17. Applicants should not assume that completion of all of the enumerated practice concentration and experience requirements will automatically entitle them to certification as a specialist.
18. Applicants may be required to provide additional information to the Society to facilitate the assessment process.
19. The Society may make discreet inquiries, as it deems appropriate, to determine the applicant's eligibility and suitability for certification as a specialist.

Taxation Law Task List

Part I – Taxation Law: Business Transactions

Category 1 – Business Transactions Legislation and Other Instruments

In the course of advising clients, all applicants applying under Part I Taxation Law Business Transactions must have considered **and** applied all of the following:

Business Corporations Act, R.S.O. 1990, c.B.16 and/or *Canada Business Corporations Act*, R.S.C. 1985, c. C.44

Income Tax Act, R.S.C, 1985, c.1 (5th Supp.) as amended

Taxation Act, 2007, S.O. 2007, c.11, Sched. A

Limited Partnerships Act, R.S.O. 1990, c.L.16

Partnerships Act, R.S.O. 1990, c.P. 5

Please also indicate the statutes, regulations, and instruments set out below relevant to your tax law practice and upon which you are competent to advise:

Canada Pension Plan, R.S.C. 1985, c. C-8

Corporations Tax Act, R.S.O. 1990, c.C.40

Delegation of the Minister of National Revenue's Powers and Duties/Authorizations to Exercise Power or Perform Duties of National Revenue (ITA-1 – ITA-8)

Employer Health Tax Act, R.S.O. 1990, c.E.11

Employment Insurance Act, S.C. 1996, c. 23

Excise Tax Act, R.S.C. 1985, c. E-15

Financial Administration Act, R.S.C. 1985, c F-11

Income Tax Act, R.S.O. 1990. C.I.2

Income Tax Conventions Interpretation Act, R.S.C. 1985, c I-4

Indian Act, RSC 1985, c I-5

Interpretation Act, R.S.C. 1985, c.I-21

Land Transfer Tax Act, R.S.O. 1990, c. L6

Pension and Benefits Standards Act 1985, R.S.C. 1985, c 32 (2nd Supp)

Pension Benefits Act, R.S.O. 1990, c P.8

Securities Act, R.S.O. 1990, c S.5

Taxation Treaties (e.g., Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, Tax Information Exchange Agreements to which Canada is a party, Organization for Economic Co-operation and Development Model Tax Convention on Income and Capital, Multilateral Conventions including IGA (FATCA))

Other Issue-specific legislation (e.g., other provincial corporate statutes, Electricity Act, or Mining Act) that is relevant to a Business Transactions taxation law practice. Please specify the legislation and its relevance to a taxation law practice:

Category 2 – Business Transactions Experience

Applicants **must** have performed **all 8** of the core tasks identified below:

Advised on tax consequences of using different business structures (e.g., types of corporations, types of partnerships, joint ventures, sole proprietorships, co-ownership, and business trusts).

Structured **and** advised on corporate and other business reorganizations (e.g., rollovers, amalgamations, wind-ups, butterflies, bumps, purifications, use of holding companies, partnerships, and joint ventures).

Structured **and** advised on tax planning aspects and the drafting of documents related to acquisitions **and** divestitures (e.g., allocation of proceeds and earn-outs, purchase and sale and non-competition agreements, hybrid transactions, and tax elections).

Interpreted changes to fiscal policy (e.g., federal or provincial budgets).

Advised on tax aspects of share structures and considerations (e.g., preferred shares, Part IV, Part IV.1, Part VI.1, and penalty taxes on excess dividends).

Advised on tax aspects of capitalizations **and** distributions to, or appropriations from, shareholders (e.g., paid-up capital, safe income, dividends [taxable, capital, and deemed], thin capitalization, shareholder and other directed benefits, and recovery of refundable taxes).

Advised on deductibility of expenses **and** income inclusion matters.

Advised on source **and** nature of income matters (e.g., capital, income, windfall, active/passive, specified investment business, specified corporate income, specified partnership income, and personal service business).

PLUS, applicants **must** have performed **24** out of the **38** tasks identified below:

Advised on tax consequences of financing different business structures (e.g., corporations, partnerships, joint ventures, sole proprietorships, co-ownership, and business trusts).

Conducted and/or advised on due diligence issues with respect to tax exposure related to acquisitions and divestitures (e.g., analyzed structure, determined income tax attributes of target, identified target's tax risks/exposure, reviewed prior transactions, reviewed return filing profile and open tax years, verified compliance with filing deadlines, ascertained whether transactions/income have been properly reported, reviewed non-arm's length transactions, considered Foreign Accrual Property Income (FAPI) implications, reviewed contemporaneous documentation to support transfer pricing with non-arm's length entities, and assessed likelihood of success of existing tax disputes).

Conducted and/or advised on due diligence issues with respect to tax exposure related to asset acquisitions and dispositions.

Advised directors on potential personal tax liabilities.

Advised on tax aspects of public securities transactions (e.g., initial public offerings, prospectus exemptions, offering memoranda, and other issuances).

Advised on tax consequences of lending structures and asset securitizations.

Advised on structures for carrying on business in Canada and permanent establishment issues.

Advised on tax aspects of cash and non-cash executive compensation (e.g., bonus, retiring allowances, fringe benefits, Employee Profit Sharing Plans (EPSPs), Deferred Profit Sharing Plans (DPSPs), Stock Appreciation Rights (SARs), Retirement Compensation Arrangements (RCAs), Employee Benefit Plans (EBPs), Health Spending Accounts (HSAs), stock options, phantom plans, and salary deferral arrangements).

Advised on withholding tax issues and waivers (Part XIII, Regulation 105) and associated treaty reductions.

Advised on tax treaty issues (e.g., limitations on benefits issues, residency, and competent authority).

Advised on partnership taxation issues (e.g., formation, rollovers, allocation, distribution, at-risk rules, and dissolution).

Advised on transfer pricing issues and documentary requirements.

Advised on Canadian tax aspects of inbound and outbound transactions (e.g., branch tax, foreign affiliate dumping rules, foreign mergers, upstream loans, surplus, unlimited liability companies, non-resident trusts, foreign affiliates, foreign property reporting, synthetic disposition arrangements, and securities and dividend lending arrangements).

Advised on tax aspects of investment vehicles (e.g., mutual funds, Exchange Traded Funds (ETFs), segregated funds, Specified Investment Flow Through Tax (SIFT), mortgage investment corporations, and Real Estate Income Trusts (REITs)).

Advised on tax issues associated with financial institutions (e.g., banks, trust companies, insurance companies, credit unions, and authorized foreign banks).

Advised on tax consequences of debt forgiveness and debt parking.

Advised on tax aspects of corporate tax credits (e.g., Scientific Research and Experimental Development program (SR&ED), investment tax credits, film and video production credits).

Advised on tax aspects of loss utilization transactions **and** stop-loss rules.

Advised on tax shelter arrangements (e.g., flow-through shares, gifting arrangements, and limited partnerships).

Advised on tax aspects of base erosion and profit shifting (BEPS) **and** treaty shopping.

Advised on tax planning **and** consequences of associated corporations, non-arm's length rules, and control (e.g., *de jure*, *de facto*, deemed, change, acquisition, and disassociation).

Advised on tax compliance issues for business vehicles (e.g., returns, elections, forms).

Advised on employee versus independent contractor issues.

Advised on land transfer tax issues.

Advised on employer health tax issues.

Advised on provincial commodity tax issues.

Advised on tax issues, special filing requirements, **and** designations for charities **and/or** non-profit organizations.

Advised on **and/or** prepared submissions under the Voluntary Disclosure Program.

Advised on **and/or** prepared a ruling request.

Advised on Canada Revenue Agency audit inquiries.

Advised on **and/or** prepared a Notice of Objection.

Advised on tax issues associated with registered charities.

Advised on charities carrying on business.

Advised on third party penalties and aggressive tax planning.

Advised on Canadian tax consequences of immigration **or** emigration.

Advised on rectification remedy.

Identified and advised on the tax risks in proposed transactions.

Advised on the Taxpayer Bill of Rights.

Part II – Taxation Law: Private Clients

Category 1 – Private Clients Legislation and Other Instruments

In the course of advising clients, all applicants applying under Part II Taxation Law: Private Clients must have considered **and** applied all of the following:

Accumulations Act, R.S.O. 1990, c A.5

Business Corporations Act, R.S.O. 1990, c.B.16 and/or *Canada Business Corporations Act*, R.S.C. 1985, c. C.44

Children’s Law Reform Act, R.S.O. 10, c C.12

Family Law Act, R.S.O. 1990, c F.3

Income Tax Act, R.S.C, 1985, c.1 (5th Supp.) as amended

Limited Partnerships Act, R.S.O. 1990, c.L.16

Partnerships Act, R.S.O. 1990, c P. 5

Perpetuities Act, R.S.O. 1990, c P.9

Succession Law Reform Act, R.S.O. 1990, c S. 26

Substitute Decisions Act, 1992, S.O. 1992, c 30

Taxation Act, 2007, S.O. 2007, c.11, Sched. A

Trustee Act, R.S.O. 1990, c T.23

Please also indicate the statutes, regulations, and instruments set out below relevant to your tax law practice and upon which you are competent to advise:

Canada Pension Plan, R.S.C. 1985, c. C-8

Canada Not For Profit Corporations Act S.C. 2009

Canadian Charter of Rights and Freedoms

Charities Accounting Act, R.S.O. 1990, c C.10

Corporations Act R.S.O. 1990, c C.38

Corporations Tax Act, R.S.O. 1990, c.C.40

Estate Administration Tax Act, 1998, S.O. 1998, c 34 Sch
Excise Tax Act, R.S.C. 1985, c. E-15
Divorce Act, R.S.C. 1985, c 3 (2nd Supp)
Estates Act, R.S.O. 1990, c E.21
Estates Administration Act, R.S.O. 1990, c E.22
Financial Administration Act, R.S.C. 1985, c F-11
Income Tax Act, R.S.O. 1990. C.I.2
Indian Act, R.S.C. 1985, c I-5
Insurance Act, R.S.O. 1990, c I.8
Interpretation Act, R.S.C. 1985, c.I-21
Land Transfer Tax Act, R.S.O. 1990, c. L6
Not For Profit Corporations Act 2010, S.O. 2010, c 15
Pension and Benefits Standards Act 1985, R.S.C. 1985, c 32 (2nd Supp)
Pension Benefits Act, R.S.O. 1990, c P.8
Public Guardian and Trustee Act, R.S.O 1990, c. P.51

Taxation Treaties (e.g., Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, Tax Information Exchange Agreements to which Canada is a party, Organization for Economic Co-operation and Development Model Tax Convention on Income and Capital, Multilateral Conventions including IGA (FATCA))

Other Issue-specific legislation that is relevant to a Private Client taxation law practice.

Category 2 – Private Clients Experience

Applicants **must** have performed **all 15** of the core tasks identified below:

Advised on the tax aspects of relevant sections of business documents (e.g., corporate, trusts, or partnership) which may have an effect on tax and estate planning.

Advised on the tax aspects of various *inter vivos* and testamentary trusts and estates (e.g., Henson trusts, family trusts, alter ego trusts, joint partner trusts, disability trusts, bare trusts, and insurance trusts) including variation and 21-year tax planning, and other allocation and distribution issues.

Advised on the tax aspects of succession plans and documentation.

Advised on the tax aspects of relevant documents to effect estate freezes or thaws (e.g., s. 85, s. 86, family trusts, and holding companies).

Advised on the tax aspects of rollover/reorganization documents.

Advised on the tax aspects of post-mortem planning (e.g., pipeline, bump, capital loss planning, and available elections).

Structured and advised on comprehensive tax plans for clients.

Identified and advised on the tax risks in proposed transactions.

Interpreted changes to fiscal policy (e.g., federal or provincial budgets).

Advised on attribution rules.

Advised on anti-avoidance rules.

Advised on capital gains issues (e.g., principal residence, Qualified Small Business Corporation shares, farm/fishing property exemptions, and capital gains reserves).

Advised on philanthropic planning.

Advised on non-Ontario asset ownership and/or beneficiaries.

Advised on intra-family and non-arm's length transfers and gifts.

PLUS, applicants **must** have performed **24** out of the **31** tasks identified below:

Advised on powers of attorney.

Reviewed, advised on, **and/or** prepared estate information returns pursuant to the *Estate Administration Tax Act*.

Advised on the tax aspects of wills, which include one or more testamentary trusts.

Prepared documentation to implement corporate and other business reorganizations (e.g., rollovers, purifications, insertion of holding companies, partnerships, and joint ventures).

Advised on tax consequences of using different business structures.

Advised on relevant sales tax matters (e.g., application of GST/HST to rollovers, reorganizations, and real estate transactions).

Advised on land transfer tax matters.

Advised on third party penalties and aggressive tax planning.

Advised on taxation issues associated with residency.

Advised on taxation issues associated with immigration **or** emigration.

Advised on taxation issues associated with employee **or** independent contractor status.

Advised on taxation issues associated with pensions, benefits, **and/or** other investment vehicles (e.g., Individual Pension Plans (IPPs) and Retirement Compensation Arrangements (RCAs)).

Advised on taxation issues associated with settlements **and/or** awards (e.g., family law, personal injury, and contractual rights).

Advised on taxation issues associated with the use of life insurance in estate planning.

Advised on taxation issues associated with investment vehicles (e.g., mutual funds, trusts, corporations, segregated funds, Exchange Traded Funds (ETFs), Registered Retirement Savings Plans (RRSP), Registered Retirement Income Funds (RRIF), Registered Education Savings Plan (RESP), Registered Disability Savings Plan (RDSP), Deferred Profit Sharing Plans (DPSP), Tax Free Savings Account (TFSA), and Employees Profit Sharing (EPSP).

Advised on taxation issues associated with private and public foundations, **and/or** non-profit organizations.

Established and registered private charitable foundations.

Advised on **and/or** prepared submissions under the Voluntary Disclosure Program **and/or** Taxpayer Relief Program.

Advised on owner-manager remuneration, shareholder benefit, shareholder loan, tax on split income, and dividend planning.

Advised on tax planning for individuals with disabilities (e.g., Qualified Disability Trusts (QDT), Lifetime Benefit Trust (LBT), Registered Disability Savings Plan (RDSP), and post-mortem elections).

Advised on tax treatment of, **and** reporting on, foreign property **and** income.

Advised on tax shelter arrangements.

Advised on the tax consequences of debt forgiveness.

Advised on tax aspects of associated corporations, non-arm's length rules, **and** control (e.g., *de jure*, *de facto*, deemed, change, and acquisition).

Advised on individual tax credits (e.g., pension, disability, and charitable).

Advised on tax compliance issues (e.g., returns, elections, and forms).

Advised on **and/or** prepared ruling requests.

Advised on Canada Revenue Agency audit inquiries.

Advised on **and/or** prepared a Notice of Objection.

Advised on rectification remedy.

Advised on the Taxpayer Bill of Rights.

Part III – Taxation Law: Gst/Hst and Sales Taxation

Category 1 – GST/HST and Sales Taxation Legislation

In the course of advising clients, all applicants applying under Part III Taxation Law: GST/HST and Sales Taxation must have considered **and** applied the following:

Excise Tax Act (GST/HST Portions), R.S.C. 1985, c. E-15 and GST/HST Regulations

Please also indicate the statutes, regulations, and instruments set out below relevant to your tax law practice and upon which you are competent to advise:

Canada Revenue Agency Act, S.C. 1999, c 17

Canadian Charter of Rights and Freedoms

Excise Act, 2001, S.C. 2002, c 22

Excise Duties on Cannabis Regulations

Financial Administration Act, R.S.C. 1985, c F-11

Fuel Tax Act, R.S.O. 1990, c F.35

Gasoline Tax Act, R.S.O. 1990, c G.5

Indian Act, R.S.C. 1985, c I-5

Interpretation Act, R.S.C. 1985, c.I-21

Legislation Act, 2006, S.O. 2006, c 21, Sched F

Ministry of Revenue Act, R.S.O. 1990, c M.33

Retail Sales Tax Act, R.S.O. 1990, c R.31

Taxpayer Bill of Rights

Taxpayer Protection Act, 1999, S.O. 1999, c 7, Sch A

Tobacco Tax Act, R.S.O. 1990, c T.10

Other Issue-specific legislation that is relevant to a GST/HST and Sales Taxation law practice.

Category 2 – GST/HST and Sales Taxation Experience

Applicants **must** have performed **all 18** of the following core tasks identified below:

Advised on GST/HST registration requirements including small business threshold **and** consequences of becoming/ceasing to be a registrant.

Advised on the different types of supplies (taxable, zero-rated, exempt) **and** their consequences.

Advised on federal and provincial place of supply rules.

Advised on the timing of GST/HST **and** rules regarding the calculation/remittance of net tax.

Advised on input tax credit entitlement, documentary requirements, **and** limitations.

Advised on the preparation **and** filing of GST/HST elections (e.g., ss.150, 156, 167, 211 or 273).

Advised on GST/HST **or** sales tax audit inquiry.

Advised on GST/HST **or** sales tax assessments and reassessments (e.g., limitation periods, application of interest and penalties, and allowances for unclaimed input tax credits or rebates).

Advised on tax paid/collected in error (e.g., credit notes, rebate entitlement).

Advised on **and/or** prepared a GST/HST **or** sales tax Notice of Objection.

Advised on **and/or** prepared submissions under voluntary disclosure programs **or** taxpayer relief programs for GST/HST or sales tax.

Interpreted changes to fiscal policy (e.g., federal or provincial budgets).

Advised on the GST/HST application to real estate transactions, including self-supply rules, exemptions and rebates.

Advised on the GST/HST aspects of sale of a business **and** availability of s. 167 election and exclusions.

Advised on the GST/HST consequences of share transactions.

Advised on the GST/HST consequences of purchase **and** sale of a business.

Advised on import arrangements (e.g., constructive importer, non-resident importer).

Advised on the GST/HST consequences of imported taxable supplies and self-reporting requirements.

PLUS, applicants **must** have performed **14** out of the **21** tasks identified below:

Advised on GST/HST financial institution provisions, including input tax credit restrictions **and** informational reporting requirements.

Advised on the application of GST/HST rules to partnership transactions.

Advised on the application of GST/HST to joint venture structure **and** availability of s. 273 election.

Advised on the application of GST/HST to supplies by public sector bodies, special filing requirement, **and** rebate entitlements.

Advised on the application of GST/HST to non-resident entities, including registration options, carrying on business **and** application of override rule.

Advised on the GST/HST aspects of supplies within a closely related group **and** availability of s. 156 election.

Advised on GST/HST financial service exemption provisions.

Advised on application of s. 155 fair market value provision.

Advised on the application of GST/HST to supplies by charities, special filing requirements, **and** rebate entitlements.

Advised on special GST/HST rules (e.g., direct sellers, network sellers, buying groups).

Advised on application of drop shipment rules to supplies involving non-residents.

Advised on the GST/HST application to export transactions.

Advised on the GST/HST application to contract damages, forfeitures, seizures, **and/or** repossessions.

Advised on GST/HST treatment of pension plans.

Advised on GST/HST treatment of health care services.

Advised on the GST/HST aspects of supplies made by a listed financial institution **and** availability of s. 150 election.

Advised on supply of real property by a public sector body **and** availability of s. 211 election.

Advised on GST/HST rules applicable to holding companies **and/or** takeover bids (s. 186).

Advised on **and/or** prepared a GST/HST ruling request.

Advised on rectification remedy.

Advised on the Taxpayer Bill of Rights.

Part IV – Taxation Law: Litigation

Category 1 – Litigation

In the course of advising clients, all applicants applying under Part IV Taxation Law: Litigation must have considered **and** applied all of the following:

Access to Information Act, R.S.C. 1985, c A-1

Canada Evidence Act, R.S.C. 1985, c C-5

Canadian Charter of Rights and Freedoms

Evidence Act, R.S.O. 1990, c E.23

Federal Courts Act, R.S.C. 1985, c F-7

Federal Courts Rules, 1988 SOR/98-106

Income Tax Act, R.S.C. 1985, c 1 (5th Supp)

Interpretation Act, R.S.C. 1985, c.I-21

Privacy Act, R.S.C. 1985, c P-20

Tax Court of Canada Act, R.S.C., 1985, c.T-2

Tax Court of Canada Rules and Practice Notes.

Taxpayer Bill of Rights

Please also indicate the statutes, regulations, and instruments set out below relevant to your tax law practice and upon which you are competent to advise:

Bankruptcy and Insolvency Act, R.S.C. 1985, c B-3

Canada Pension Plan, R.S.C. 1985, c C-8

Canada Revenue Agency Act, S.C. 1999, c 17

Courts of Justice Act, R.S.O. 1990, c C.43

Delegation of the Minister of National Revenue's Powers and Duties/Authorizations to Exercise Power or Perform Duties of National Revenue

Department of Justice Act, R.S.C. 1985, c J-2

Employment Insurance Act, S.C. 1996, c 23

Excise Tax Act, R.S.C. 1985, c E-15

Financial Administration Act, R.S.C. 1985, c F-11

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c F.31

Judges Act, R.S.C. 1985, c J-1

Ministry of Revenue Act, R.S.O. 1990, c M.33

Personal Information Protection and Electronic Documents Act, S.C. 2000, c 5

Rules of Civil Procedure

Rules of the Supreme Court of Canada, SOR/2002-156

Supreme Court of Canada Act, R.S.C. 1985 C. S-26

Taxation Treaties – **Note** if this indicator is selected, please provide the titles of the treaties applied or considered in your taxation litigation practice in the space provided below, or on a separate sheet.

PLUS, applicants **must** list other provincial **and/or** federal taxation-specific legislation that is relevant to their dispute resolution or litigation practice.

Specific **provincial** legislation

Specific **federal** legislation

In the course of your career as a litigator in taxation law, please identify the number of times you have appeared as counsel or co-counsel in tax matters before the following courts:

Tax Court of Canada:

Federal Court:

Federal Court of Appeal:

Supreme Court of Canada:

Ontario Court of Justice:

Superior Court of Justice:

Ontario Court of Appeal:

Non-Ontario Courts:

Category 2 – Litigation Experience

Applicants **must** have performed **all 15** of the core tasks identified below:

Identified the amounts in issue, onus **and** appropriate forum and procedure for disputing assessments **and/or** determinations.

Developed the appropriate basis for challenging an assessment **and/or** determination and the Ministerial assumptions underlying it.

Advised clients on the implications of tax dispute resolution/litigation (e.g., interest, penalties, costs, collection, derivative assessments).

Engaged in negotiations during the tax dispute resolution process including preparing written **and** oral submissions.

Advised on the Taxpayer Bill of Rights.

Prepared one or more Notices of Objection.

Advised on and advocated with respect to limitation periods for assessments, objections, extension requests, and appeals.

Advised on Notices of Assessment, Notices of Reassessment, and Notices of Confirmation.

Prepared **and** filed pleadings to the appropriate court including a Notice of Appeal or Reply (or the equivalent).

Advised on pre-trial tax procedures **and** prepared appropriate documents, such as offers to settle, Demands for Particulars and Requests to Admit.

Engaged in tax matter pre-trial preparation (e.g., marshalling the necessary factual evidence to advance or defend the client's position, including witnesses, documents, including those in the possession of a third party, and demonstrative evidence; and marshalling the necessary opinion evidence of experts to advance or defend the client's position).

Conducted examinations for discovery.

Provided advocacy of client's tax position within a range of pre-hearing options, including Status Hearings, Case Management Conferences, Trial Management and Settlement Conferences, **and/or** motions.

Appeared as lead counsel in the hearing of at least **two** separate appeals before the Tax Court of Canada (necessarily including General Procedure Matters)

Appeared as counsel in a tax matter before the Federal Court and/or the Federal Court of Appeal.

Effective Date: April 5, 2019