

Verification Duties To Claim Input Tax Credits

Author : admin

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Mandatory Requirements To Claim Input Tax Credits

Les Ventes et Façonnage de Papier Reiss Inc. v. The Queen, [2016 TCC 289](#)

At issue was whether the taxpayer was entitled to claim Input Tax Credits (ITCs), where the invoice is that of an intermediary, in remitting net tax (GST/HST) under the [Excise Tax Act](#).

The Court stated that at a minimum, the person who claims input tax credits MUST: (1) verify the continued validity of the tax registration number, and (2) the identity of the supplier (corporation, officers, and directors). Failing this, good faith and honesty will not serve and the ITCs will not be claimable.

ANALYSIS

The [Excise Tax Act](#) permits a registrant to claim ITCs when the information required by [Regulations](#) is obtained, including the name of the supplier or intermediary being on the supporting documentation. The Regulations define an "intermediary" as a "registrant who, acting as an agent of the person or under an agreement with the person, causes or facilitates the making of the supply by the person". The name of the true supplier or his or her intermediary must appear on the invoice - *Kosma?Kare Canada Inc. v. Her Majesty the Queen*, [2014 FCA 225](#).

The provisions of the ETA and the Regulations are mandatory with respect to claims for input tax credits - *Her Majesty the Queen v. Salaison Lévesque Inc.*, [2014 FCA 296](#); *Systematix Technology Consultants Inc. v. Her Majesty the Queen*, [2007 FCA 226](#) (para 190). Good faith in claiming ITCs is of no relevance (para 192), and neither is unfairness to the purchaser - *Comtronic Computer Inc. v. Her Majesty the Queen*, [2010 TCC 55](#) (para 193).

The name that appears on the invoice must be the supplier that made the supply or must be the mandatory or authorized representative of that supplier AND the person who issued the invoice must have an interest in issuing the invoice (para 195).

The person claiming ITCs must take risk management measures or else they bear the risk of fraud, identity theft, or wrongdoing (para 196). This includes the duty of verification (para 197).

The burden of making a prima facie case that it acquired the supplies from the supplier whose

name appears on the invoice and that it is not part of an invoice of convenience scheme rests with the taxpayer (paras 200-02).

The Court held that the only verification measure taken by the taxpayer was checking that the tax registration numbers were still valid (para 212). This was not enough, as the person claiming ITCs must ensure that the name on the invoice is that of the true supplier (para 214-15). A taxpayer is not, however, required to conduct verification to ensure that suppliers are in compliance with tax laws, but must conduct minimum verification which includes (para 218):

- searching the government's website to confirm registration for tax;
- verifying the identity of the person with whom the person is doing business, which can include verifying the identity of directors and officers of corporations or individuals engaged in commercial activity.

Sas Ansari, BSc BEd PC JD LLM PhD (exp) CPA In-Depth Tax 1, 2 &3

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