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1. Supreme Court Allows Rebate of GST Overpayments

In [United Parcel Service Canada Ltd. v. Canada](#), 2009 SCC 20 the Supreme Court unanimously allowed UPS's appeal concerning its almost \$3 million overpayment of GST. Rejecting CRA's argument that UPS could not claim a refund of GST it was never liable to pay, the court held that "it cannot have been the intention of Parliament that persons who were not liable for GST but paid GST in error could not obtain a rebate." (para.17) As noted in the following two articles, the court took a broad approach in its interpretation of s.261 of the [Excise Tax Act](#), also rejecting the Minister's arguments concerning possible double recovery and restricted use of the general rebate provisions.

- [Supreme Court of Canada Broadens GST Rebate Entitlement](#) by Jeff Galway & Greg Kanargelidis, posted May 5, 2009 on Blakes
- [The Role of Statutory Interpretation in Tax Law](#) by Sona Dhawan, posted May 7, 2009 on [The Court](#)

2. Tax Avoidance Transaction Not Abusive: FCA

Following the "overall results" analysis applied by the Supreme Court of Canada in [Lipson v. Canada](#), 2009 SCC 1 the Federal Court of Appeal held in [Canada v. Landrus](#), 2009 FCA 113 that the general anti-avoidance rule (GAAR) did not prohibit the deduction of a terminal loss under s.20(16) of the [Income Tax Act](#). In this case the loss occurred after two partnerships transferred buildings that had declined in value to a new partnership involving the same partners. The court rejected the Minister's argument that the transfers did not result in a true loss and were therefore abusive under the GAAR. See the following article for a summary of the decision:

- [Landrus: Specificity Ousts GAAR](#), a May 2009 Borden Ladner Gervais Tax Bulletin

3. European Free Trade Agreement Legislation in Force July, 2009

The *Canada-EFTA Free Trade Agreement Implementation Act*, S.C. 2009, c. 6 ([Bill C-2](#)) was brought [into force](#) by order of the Governor in Council, effective July 1, 2009. As described in the [legislative summary](#), the act implements four trade treaties between Canada and the member states of the European Free Trade Association and amends three existing pieces of legislation: the *Canadian International Trade Tribunal Act*, the *Customs Act*, and the *Customs Tariff*.

4. Federal Anti-Spam Legislation Introduced

The *Electronic Commerce Protection Act* ([Bill C-27](#)), an act to promote the efficiency and adaptability of the Canadian economy by regulating activities that discourage reliance on electronic means of carrying out commercial activities, was introduced April 24, 2009 and given second reading on May 8. The stated intent of the bill is to enhance e-commerce by deterring spam, phishing and spyware, but some worry that its broad language will circumscribe legitimate online business. See:

- [Anti-Spam Bill Raises Concerns](#), a McCarthy Tétrault article published May 12, 2009
 - [Spammers Beware: Proposed E-Commerce Protection Act Prohibits Unsolicited Commercial Electronic Messages](#), a Blakes bulletin posted May 12, 2009
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5. Proposed Manitoba Legislation

The Manitoba government has proposed changes to *The Cooperatives Act* to increase flexibility in issuing membership shares. [Bill 22](#), *The Cooperatives Amendment Act*, was introduced April 23, 2009.

[Bill 30](#), *The Budget Implementation and Tax Statutes Amendment Act, 2009* received first reading on April 30, 2009. As detailed in the [explanatory note](#), this Bill implements measures in the 2009 Manitoba Budget and makes various other amendments to tax and financial legislation.

6. International Law CLE

The [International Law section](#) of the Manitoba Bar Association is presenting the program *International Trade, the Financial Crisis and the Role of the G20 - Do We Need Another Bretton Woods?* on Friday, June 5, 2009 from 11:30 am to 1:00 pm in the 25th floor boardroom of Pitblado LLP, 2500-360 Main Street. The Honourable Pierre Pettigrew, former Minister of Foreign Affairs and Minister of International Trade, will discuss his views on the current economic crisis and whether it raises the need for a restructuring of current international institutions. An interactive discussion will follow.

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