Federal Court of Appeal | Cour d'appel fédérale

Date: 20250203

Docket: A-132-23

Citation: 2025 FCA 27

CORAM: **BOIVIN J.A.**
ROUSSEL J.A.
GOYETTE J.A.

BETWEEN:

BELL TELEPHONE COMPANY OF CANADA OR BELL CANADA

Appellant

and

HIS MAJESTY THE KING

Respondent

Heard at Toronto, Ontario, on December 4, 2024.

Judgment delivered at Ottawa, Ontario, on February 3, 2025.

REASONS FOR JUDGMENT BY: BOIVIN J.A.

CONCURRED IN BY: ROUSSEL J.A.
GOYETTE J.A.

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REASONS FOR JUDGMENT

BOIVIN J.A.

I. INTRODUCTION

[1] Bell Canada, the appellant, appeals a judgment from the Tax Court of Canada (TCC) rendered by Justice D'Arcy (the judge) on April 12, 2023 (2023 TCC 45) (the Decision). The judge dismissed the appellant's appeal from assessments made under the *Excise Tax Act,* R.S.C.,

1985, c. E-15 (the GST Act) by Notices of Assessment dated July 30, 2015, and May 30, 2016, respectively.

[2] Before the TCC, the appellant alleged the Notices of Assessment, which involved the appellant's July 2010 to December 2012 reporting periods, recaptured an excessive amount of input tax credits. During that time, subsection 236.01(2) of Part IX of the GST Act required a large business, such as the appellant, to recapture a portion of the input tax credits that it claimed in respect of certain specified property and services, including, in relevant part, electricity.

[3] The key question put before the TCC for determining whether excessive input tax credits were recaptured was whether the appellant, when purchasing electricity from local distribution companies (Local Distributors) in Ontario, had purchased a single supply of electricity or multiple supplies of electricity, delivery services, and regulatory services. The appellant is of the view that it had purchased multiple supplies as opposed to a single supply.

[4] The judge applied the test established in *O.A. Brown Ltd. v. Canada*, [1995] G.S.T.C. 40 (T.C.C) (*O.A. Brown*)—confirmed by the Supreme Court of Canada in *Calgary (City) v. Canada, 2012 SCC 20 (City of Calgary)*—to identify the nature of the supply and concluded that the appellant had in fact purchased a single supply of electricity, rather than multiple supplies of electricity, delivery services, and regulatory services. The judge thus dismissed the appeal.

[5] Before our Court, the appellant challenges the judge's determination that the *O.A. Brown* test is applicable in the circumstances and, alternatively, alleges that the judge erred in his application of the test to the facts of the case.

[6] For the reasons that follow, I would dismiss the appeal with costs.

II. BACKGROUND

[7] As a preliminary note, I will refer throughout the reasons to the recapture of the appellant's input tax credits as meaning, unless otherwise specified, the recapture of the input tax credits claimed in respect of the provincial portion of the tax paid by the appellant on the consideration for the supply of electricity by Local Distributors, pursuant to subsection 236.01(2) of the GST Act.

[8] The appellant is a goods and services tax (GST) registrant engaged in commercial activities relating to telecommunications equipment and services. In the course of its commercial activities, the appellant contracted with Local Distributors to receive a supply of electricity. Pursuant to subsection 169(1) of the GST Act, persons such as the appellant may claim input tax credits on the taxes paid on the consideration for the supply of goods or services acquired in the course of their commercial activities. Subject to certain exceptions that are not relevant here, input tax credits reduce the amount of "net tax" that is payable by a taxpayer, such as the appellant (s. 225(1) and s. 228(2) of the GST Act).

[9] The central issue in this appeal arises from an agreement between the federal and Ontario governments to harmonize federal and provincial sales taxes. Pursuant to Parliament's enactment of section 236.01 of the GST Act to give effect to this agreement, large businesses, such as the appellant, were required to recapture the input tax credits claimed on the 8% provincial portion of the harmonized sales tax (HST) on specified property or services. Sections 26 and 28 of Part 6 of the *New Harmonized Value-added Tax Systems Regulations, No. 2*, S.O.R./2010-151 (the Recapture Regulations) prescribe the specified property and services subject to recapture. Specified property includes specified energy that was acquired in, or brought into, Ontario. Specified energy is defined to mean, in relevant part, electricity.

[10] During the years at issue, the appellant purchased electricity exclusively from Local Distributors. The then operative version of O. Reg. 275/04: *Information on Invoices to Low-volume Consumers of Electricity* (the Invoice Regulations), required that Local Distributors itemize various charges on their invoices under the heading "Your Electricity Charges" (1.(1)). These charges were listed under the following sub-headings: Electricity, Delivery, Regulatory charges, and Debt retirement charge (Invoice Regulations, s. 1.(2)). Before the TCC, the appellant challenged the recapture of input tax credits related to the delivery and regulatory charges, alleging that the Invoice Regulations separated the supplies of electricity, delivery services, and regulatory services, such that only the input tax credits related to the line item electricity should be subject to recapture.

[11] The judge seized of the appellant's appeal from the assessments, provided a thorough analysis of the relevant provisions relating to input tax credits and their recapture and concluded

that the provisions require a determination as to whether the Local Distributors made a single supply comprised of a number of constituent elements that included electricity or multiple supplies of separate goods and/or services (Decision at paras. 69-96). The judge thus deemed it necessary to follow the Supreme Court's decision in *City of Calgary*, which affirms the test articulated in *O.A. Brown*, to make a factual determination as to "whether, in substance and reality, the alleged separate supply is an integral part, integrant or component of the overall supply" (*O.A Brown* at 40-6; Decision at para. 103).

[12] The judge provided an overview of both *O.A. Brown* and *City of Calgary* as well as other relevant cases and considerations for assessing whether a supplier supplied a single supply or multiple supplies (Decision at paras. 97-109). The judge noted that the Supreme Court, in *City of Calgary*, emphasized the importance of applying common sense in this assessment (Decision at para. 109).

[13] Following a careful review of the evidence, the judge applied the law to the facts before him, in light of the relevant jurisprudence, and concluded that the delivery services and regulatory services were components of the overall supply of electricity, and hence a single supply (Decision at para. 123).

[14] Unsatisfied with the judge's decision, the appellant appeals before this Court. Specifically, the appellant submits the judge applied the *O.A. Brown* test prematurely after failing to conduct a proper statutory interpretation. Alternatively, the appellant argues that the

judge committed various errors in his application of the *O.A. Brown* test, resulting in the erroneous conclusion that electricity constituted a single supply.

III. RELEVANT STATUTORY PROVISIONS

[15] The relevant statutory provisions are included in the Annex.

IV. STANDARDS OF REVIEW

[16] The applicable standards of review are those laid out in *Housen v. Nikolaisen,* 2002 SCC 33 (*Housen*). The applicability of the *O.A. Brown* test raises a question of law subject to correctness review (*Housen* at para. 8). The judge's factual conclusions made with respect to the application of the *O.A. Brown* test are subject to the palpable and overriding error standard (*Housen* at paras. 10 and 36).

V. ISSUES

[17] This appeal raises the following issues:

A. *Did the judge err in law by applying the O.A. Brown test to determine the nature of the supply?*

B. *Did the judge commit a palpable and overriding error in his application of the O.A. Brown test to the facts?*

VI. ANALYSIS

A. *Did the judge err in law by applying the O.A. Brown test to determine the nature of the supply?*

[18] At this juncture, and prior to addressing the appellant's arguments, it is useful to provide some background with respect to the test elaborated by the TCC in *O.A. Brown*.

[19] *O.A. Brown* involved O.A. Brown Ltd., which bought and resold livestock for customers and kept the livestock in its possession until delivering the livestock to the client (*O.A. Brown* at 40-2). O.A. Brown Ltd. itemized various charges on its invoices to clients, including the cost of purchasing the cattle, as well as caring for the cattle before delivering it to customers (*O.A. Brown* at 40-3). For GST purposes, the TCC was tasked with determining whether those itemized charges were part of the supply of livestock or whether they constituted multiple separate supplies (*O.A. Brown* at 40-4).

[20] The TCC in *O.A. Brown* examined English cases to establish the following framework for determining whether a supplier has supplied a single supply or multiple supplies:

> In deciding this issue, it is first necessary to decide what has been supplied as consideration for the payment made. It is then necessary to consider whether the overall supply comprises one or more than one supply. The test to be distilled from the English authorities is whether, in substance and reality, the alleged separate supply is an integral part, integrant or component of the overall supply. One must examine the true nature of the transaction to determine the tax consequences. . . .
>
> [*O.A. Brown* at 40-6]

[21] In *O.A. Brown*, the TCC found that O.A. Brown Ltd. made a single supply of livestock to its customers (*O.A. Brown* at 40-8). The fact that the invoice itemized the charges did not mean the charges constituted separate supplies for tax purposes (*O.A. Brown* at 40-7). Rather, the TCC emphasized the importance of considering the "true nature of the supply" and asking whether the alleged separate supply could realistically be omitted from the overall supply (*O.A. Brown* at 40-7).

[22] In the present case, the appellant submits that the judge erred in law by applying the *O.A. Brown* test to determine the nature of the taxable supply, in part, because he did not have the benefit of this Court's decision in *Canada v. Dr. Kevin L. Davis Dentistry Professional Corporation*, 2023 FCA 76 (*Kevin Davis Dentistry*), whose consideration would have instructed him to decide the issue using statutory interpretation rather than applying *O.A. Brown*. Further, argues the appellant, a proper statutory interpretation plainly supports the conclusion that, of the various charges listed on the Local Distributors invoices, only the input tax credits related to the line item of electricity would be subject to recapture. I will now consider these arguments.

[23] First, the appellant's submission that the judge failed to undertake any statutory interpretation before applying *O.A. Brown* is mistaken. Indeed, it is clear from a reading of the judge's decision that, from paragraphs 35-48, the judge considered the relevant statutory and regulatory provisions relating to Ontario's electricity market and from paragraphs 69-95, the judge further considered the provisions relating to input tax credits and their recapture. In light of the broad definitions contained in the provisions, the judge correctly determined that applying the *O.A. Brown* test was necessary to dispose of the issue before him. Although the appellant

offers its own statutory interpretation to argue that the judge erred in resorting to the application of *O.A. Brown*, it is not necessary for this Court to consider each element of this proposed statutory interpretation as it fails to identify errors and instead merely advances the appellant's preferred interpretation.

[24] Second, I am of the view that this case is clearly distinguishable from *Kevin Davis Dentistry*.

[25] At issue before our Court, in *Kevin Davis Dentistry*, was whether the TCC had correctly determined that *O.A. Brown* was not applicable for the purposes of determining the tax treatment of orthodontic services and appliances (*Kevin Davis Dentistry* at paras. 19-20). Our Court upheld the TCC decision on the basis that the "[the GST Act] and its Schedules provide for different tax treatment of supplies of orthodontic appliances and orthodontic services." (*Kevin Davis Dentistry* at para. 23). Our Court further held that "Parliament's intent must override *O.A. Brown where legislative intent is clear* as it is in the provisions applicable in this case." (Emphasis added, *Kevin Davis Dentistry* at para. 35).

[26] Despite our Court's reasoning in *Kevin Davis Dentistry*, the appellant insists that this case is analogous to *Kevin Davis Dentistry* as the Invoice Regulations separate the supplies of electricity, delivery services, and regulatory services, demonstrating that Ontario intended to treat these as separate supplies. The Recapture Regulations, which allow for the recapture of input tax credits related to electricity, should thus be read in a way that gives effect to the

separation of the supplies intended by the Invoice Regulations, argues the appellant, adding that the judge erred in his interpretation and failed to give legal effect to this separation.

[27] I disagree.

[28] In *Kevin Davis Dentistry*, the GST Act and its Schedules separated the supplies at issue and explicitly stated their intentionally different tax treatments. The same cannot be said in the present circumstances as the Invoice Regulations do not amount to as clear an indicator of Parliament's intent as the GST Act did in *Kevin Davis Dentistry*. Further, the intended tax treatment of what would constitute separate supplies in the present circumstances is not outlined in any statute as it was in the GST Act in *Kevin Davis Dentistry*. The appellant's argument accordingly fails.

[29] The appellant also submits that the judge erred in applying *O.A. Brown* as the agreement entered into between the Ontario and federal governments for the harmonization of taxes envisaged that the list of specified property and services subject to input tax credit recapture would not exceed the list provided for in an analogous agreement between the Quebec and federal governments. In support of its contention, the appellant relies on the Quebec Court of Appeal decision *Goodyear Canada Inc. c. Québec (Sous-ministre du Revenu)*, 2002 CanLII 25441 (QC CA) (*Goodyear*). In that case, and for the purposes of a similar recapture provision, the Quebec Court of Appeal determined that the transportation of gas constituted a separate supply from the supply of the gas itself and the input tax credits related to transportation were not subject to recapture (*Goodyear* at paras. 10-11). However, *Goodyear* is distinguishable from

the case at bar, as *Goodyear* involved two separate contracts and two separate considerations paid, thus creating two distinct supplies. In *Goodyear*, the presence of two contracts and two considerations played a dispositive role (at para. 15).

[30] In sum, the judge undertook a careful statutory interpretation and correctly determined that the definitions contained within the statute were too broad to assist him in determining the nature of the supply. In doing so, the judge correctly resorted to the appropriate *O.A. Brown* test, as affirmed by the Supreme Court. I see no error in the judge's decision in doing so.

B. *Did the judge commit a palpable and overriding error in his application of the O.A. Brown test to the facts?*

[31] As an alternative argument, the appellant submits that the judge committed various palpable and overriding errors in his application of the *O.A. Brown* test to the facts of this case.

[32] Firstly, the appellant submits that the judge erred in his appreciation of the charges itemized on the invoices from Local Distributors. The judge concluded that Local Distributors based their invoice itemization on the requirements of the Invoice Regulations and, as such, the itemization was not a reflection of what the Local Distributors truly believed they were supplying (Decision at paras. 68 and 126). The appellant argues the judge erred, as it does not matter what the Local Distributors believed they were supplying; what matters is that the legislator, in adopting the Invoice Regulations, intended a legal separation of the supplies.

[33] In considering the Invoice Regulations' requirements regarding the disclosure of invoicing of information, the judge noted that important discrepancies in the invoices of various Local Distributors made it impossible to state definitively what was being supplied under the various charges (Decision at paras. 127-130). He further rightfully noted that the appellant bore the responsibility of providing evidence regarding the charges and that this evidence was not before him (Decision at para. 130). I see no error in the judge's conclusion that he was lacking sufficient evidence to determine the true nature of the charges, and that the Invoice Regulations alone did not indisputably support a conclusion that the charges represented separate supplies.

[34] Secondly, the appellant contends that the judge made contradictory and irreconcilable findings based on certain invoices sent to the appellant containing charges for delivery and regulatory services, but not for electricity. The appellant indicates that when the Local Distributors provided invoices without electricity charges, one may presume that they did not make a supply of electricity. As such, the appellant argues that it was contradictory for the judge to find that Local Distributors provided a single supply of electricity, when certain invoices do not contain any electricity charges whatsoever, despite containing delivery and regulatory charges.

[35] It is recalled that the judge fully considered this argument (Decision at paras. 133-142). He heard conflicting evidence as to what the delivery charges could represent when no amount was charged for electricity and, given the insufficient evidence provided by the appellant, concluded it was thus impossible to determine what exactly was being supplied when the

invoices did not list any charges for electricity (Decision at paras. 140-142). Again, I see no error in this conclusion.

[36] Thirdly, the appellant argues that the judge erred in disregarding the fact that electricity could be purchased separately from delivery and regulatory services by contracting with a retailer. In that case, the retailer would supply electricity, the Local Distributors would supply delivery and regulatory services, and only the input tax credits related to electricity would be subject to recapture.

[37] The appellant refers to this Court's judgment in *Hidden Valley Golf Resort Assn. v. R.* 2000 G.S.T.C. 42 (*Hidden Valley*), which cites the proposition from *O.A. Brown* to the effect that it is useful, when deciding whether something constitutes a single supply or multiple supplies, "to consider whether it would be possible to purchase each of the various elements separately and still end up with a useful article or service" (*Hidden Valley* at para. 17 citing *O.A. Brown* at 40-6 to 40-9).

[38] The appellant also refers to an example from a CRA information bulletin that outlines various scenarios illustrating the recapture of input tax credits (Secondary Sources, Joint Book of Authorities, Vol. III, Tab 39, Example 21, Canada Revenue Agency, *GST/HST Technical Information Bulletin B-104* (June 2010)). In the example cited, the GST registrant purchased electricity from a retailer and purchased the regulatory and distribution services from Local Distributors and only the input tax credits claimed in respect of electricity were subject to recapture. The appellant thus argues that the CRA information bulletin and the *Hidden Valley*

judgment both support the interpretation that Local Distributors supplied the appellant with multiple supplies.

[39] However, the appellant fails to mention that the bulletin explicitly states, *"*[*since*] *the supplies are made by different suppliers*, the tax payable for the consideration for the supply of electricity from the retailer will be subject to the RITC requirement" (Emphasis added). (Secondary Sources, Joint Book of Authorities, Vol. III, Tab 39, Example 21, Canada Revenue Agency, *GST/HST Technical Information Bulletin B-104* (June 2010)). Moreover, while the CRA information bulletin example cited by the appellant does allow the separation of the supplies where there are separate suppliers, the example immediately preceding it treats delivery charges as incidental to the supply of natural gas charges in cases where there is a single supplier (Secondary Sources, Joint Book of Authorities, Vol. III, Tab 39, Example 20, Canada Revenue Agency, *GST/HST Technical Information Bulletin B-104* (June 2010)). I thus remain unconvinced that the examples set forth in the CRA information bulletin support the appellant's contention. Rather, the examples support the finding that, where there is only one supplier, recapture will include any charges, such as delivery and regulatory fees, which are incidental to the supply of energy itself.

[40] With respect to *Hidden Valley*–and also *O.A. Brown*–although both decisions mention it is "useful" to consider whether the separate purchase of the supplies is possible, neither case states that the ability to purchase the alleged separate supply separately dictates a finding that it is in fact a separate supply (*O.A. Brown* at 40-7, *Hidden Valley* at para. 17). *O.A. Brown* instructs that this factor is only dispositive where it is *not* possible to purchase the supplies separately,

since it is then “a necessary conclusion that the supply is a compound supply which cannot be split up for tax purposes” (*O.A. Brown* at 40-7).

[41] The judge did consider the possibility of purchasing electricity from a retailer and separately purchasing delivery and regulatory services from Local Distributors. However, he found that this had no bearing on the supplies before the Court (Decision at paras. 131-132). The appellant has not demonstrated an error in the judge’s reasoning in that regard, as the ability to purchase supplies separately is not a dispositive factor and, on the basis of the evidence before him, the judge did not err in determining that the appellant purchased all electricity through Local Distributors, not retailers.

[42] Finally, in oral submissions before this Court, the appellant alleged a myriad of further errors regarding the judge’s understanding of the differences between retailing and distributing electricity. It is not necessary for this Court to consider these allegations as they are primarily semantic and the arguments do not in any way impact the outcome of the current appeal.

VII. CONCLUSION

[43] I would dismiss the appeal with costs.

"Richard Boivin"
J.A.

“I agree.
Sylvie E. Roussel J.A.”

“I agree.
Nathalie Goyette J.A.”

APPENDIX

RELEVANT STATUTORY PROVISIONS

***Excise Tax Act*, R.S.C., 1985, c. E-15**	***Loi sur la taxe d'accise*, L.R.C. (1985), ch. E-15**
SUBDIVISION B	**SOUS-SECTION B**
Input Tax Credits	**Crédit de taxe sur les intrants**
General rule for credits	**Règle générale**
169 (1) Subject to this Part, where a person acquires or imports property or a service or brings it into a participating province and, during a reporting period of the person during which the person is a registrant, tax in respect of the supply, importation or bringing in becomes payable by the person or is paid by the person without having become payable, the amount determined by the following formula is an input tax credit of the person in respect of the property or service for the period: **A × B** where **A** is the tax in respect of the supply, importation or bringing in, as the case may be, that becomes payable by the person during the reporting period or that is paid by the person during the	**169 (1)** Sous réserve des autres dispositions de la présente partie, un crédit de taxe sur les intrants d'une personne, pour sa période de déclaration au cours de laquelle elle est un inscrit, relativement à un bien ou à un service qu'elle acquiert, importe ou transfère dans une province participante, correspond au résultat du calcul suivant si, au cours de cette période, la taxe relative à la fourniture, à l'importation ou au transfert devient payable par la personne ou est payée par elle sans qu'elle soit devenue payable : **A × B** où : **A** représente la taxe relative à la fourniture, à l'importation ou au transfert, selon le cas, qui, au cours de la période de déclaration, devient payable par la personne ou est payée

period without having become payable; and **B** is	par elle sans qu'elle soit devenue payable; **B :**
[…]	…
(c) in any other case, the extent (expressed as a percentage) to which the person acquired or imported the property or service or brought it into the participating province, as the case may be, for consumption, use or supply in the course of commercial activities of the person.	**c)** dans les autres cas, le pourcentage qui représente la mesure dans laquelle la personne a acquis ou importé le bien ou le service, ou l'a transféré dans la province, selon le cas, pour consommation, utilisation ou fourniture dans le cadre de ses activités commerciales.
[…]	…
Definitions	**Définitions**
236.01 (1) The following definitions apply in this section.	**236.01 (1)** Les définitions qui suivent s'appliquent au présent article.
large business means a prescribed person or a person of a prescribed class. (*grande entreprise*)	***grande entreprise*** Personne visée par règlement ou faisant partie d'une catégorie réglementaire. (*large business*)
specified property or service means a prescribed property or service, or property or a service of a prescribed class. (*bien ou service déterminé*)	***bien ou service déterminé*** Bien ou service visé par règlement ou faisant partie d'une catégorie réglementaire. (*specified property or service*)
specified provincial input tax credit means	***crédit de taxe sur les intrants provincial déterminé***
(a) the portion of an input tax credit of a large business in respect of a specified property or service that is attributable to tax under subsection 165(2), section 212.1 or 218.1 or Division IV.1 in respect of the	**a)** La partie d'un crédit de taxe sur les intrants d'une grande entreprise, relatif à un bien ou service déterminé, qui est attribuable à la taxe prévue au paragraphe 165(2), aux articles 212.1 ou 218.1 ou à la

acquisition, importation or bringing into a participating province of the specified property or service; and	section IV.1 relativement à l'acquisition, à l'importation ou au transfert dans une province participante du bien ou service déterminé;
[…]	…
Recapture of specified provincial input tax credits	**Récupération des crédits de taxe sur les intrants provinciaux déterminés**
(2) If a sales tax harmonization agreement with the government of a participating province relating to the new harmonized value-added tax system allows for the recapture of input tax credits, in determining the net tax for the reporting period of a large business that includes a prescribed time, the large business shall add all or part, as determined in prescribed manner, of a specified provincial input tax credit of the large business.	**(2)** Si un accord d'harmonisation de la taxe de vente conclu avec le gouvernement d'une province participante relativement au nouveau régime de la taxe à valeur ajoutée harmonisée permet la récupération de crédits de taxe sur les intrants, les grandes entreprises sont tenues d'ajouter, dans le calcul de leur taxe nette pour leur période de déclaration qui comprend un moment prévu par règlement, la totalité ou une partie, déterminée selon les modalités réglementaires, de leur crédit de taxe sur les intrants provincial déterminé

***New Harmonized Value-added Tax Systems Regulations*, No. 2, S.O.R./2010-151**	***Règlement no. 2 sur le nouveau régime de la taxe à valeur ajoutée harmonisée*, DORS/2010-151**
PART 6	**PARTIE 6**
Recapture of Specified Provincial Input Tax Credits	**Récupération de crédits de taxe sur les intrants provinciaux déterminés**
DIVISION 1	**SECTION 1**
Interpretation	**Définitions**
Definitions	**Définitions**

26 The following definitions apply in this Part.	**26** Les définitions qui suivent s'appliquent à la présente partie.
[…]	…
specified energy means	***forme d'énergie déterminée***
(a) electricity, gas and steam; and	**a)** Électricité, gaz et vapeur;
(b) anything (other than fuel for use in a propulsion engine) that can be used to generate energy	**b)** toute chose, à l'exception du carburant destiné aux moteurs à propulsion, qui peut servir à produire de l'énergie :
(i) by way of combustion or oxidization, or	**(i)** soit par combustion ou oxydation,
(ii) by undergoing a nuclear reaction in a reactor for the generation of energy. (*forme d'énergie déterminée*)	**(ii)** soit par suite d'une réaction nucléaire dans un réacteur servant à la production d'énergie. (*specified energy*)
[…]	…
DIVISION 3	**SECTION 3**
Prescribed Property or Service	**Biens ou services visés**
Specified property or service	**Bien ou service déterminé**
28 (1) For the purposes of the definition specified property or service in subsection 236.01(1) of the Act, the following property and services are prescribed:	**28 (1)** Sont visés pour l'application de la définition de ***bien ou service déterminé*** au paragraphe 236.01(1) de la Loi les biens et services suivants :
[…]	…
(e) specified energy that is acquired in, or brought into,	**e)** toute forme d'énergie déterminée qui est acquise

a specified province other than qualifying heating oil, as defined in section 1 of the Deduction for Provincial Rebate (GST/HST) Regulations, acquired in, or brought into Prince Edward Island;[1]	ou transférée dans une province déterminée, sauf s'il s'agit d'huile de chauffage admissible, au sens de l'article 1 du Règlement sur la déduction pour le remboursement provincial (TPS/TVH), qui est acquise ou transférée à l'Île-du-Prince-Édouard;[2]

[1] For the 2010 to 2012 periods, paragraph 28(1)(e) only read: "(e) specified energy that is acquired in, or brought into, a specified province".

[2] Pour les périodes 2010 à 2012, l'alinéa 28(1)e) se lisait uniquement comme suit : « e) toute forme d'énergie déterminée qui est acquise ou transférée dans une province déterminée; ».

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-132-23
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CONCURRED IN BY:	ROUSSEL J.A. GOYETTE J.A
DATED:	FEBRUARY 3, 2025

APPEARANCES:

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