



## John C. Yuan

### Partner

Toronto

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t. +1 416-601-7849

### Bar Admission

Ontario 1995

### Law School

University of Windsor

### Practices

Tax Planning

Tax Disputes

John Yuan is a Toronto partner of McCarthy Tétrault's National Tax Group. The focus of his practice is tax dispute resolution. He has extensive experience representing taxpayers at every stage of a dispute with tax authorities: audit, administrative objection, and litigation.

Much of John's tax law experience was gained earlier in his legal career in the transaction-implementation side of the firm's tax practice. This allowed him to develop a strong understanding of many of the tax concepts that are engaged when the tax authorities challenge the tax reporting of sophisticated clients. His previous tax dispute mandates have involved a broad range of industries, transaction types, and tax issues, including the following types of engagements:

- Assisting taxpayers with audits by tax authorities, including providing the taxpayer with support in responding to audit queries or formal demands for documents and information, and/or reassessment proposals and negotiating audit agreements
- Representing taxpayers in their administrative appeals of a reassessment
- Representing taxpayers in tax appeals before the Tax Court of Canada
- Representing taxpayers in applications for judicial review of an adverse decision by the Minister of National Revenue
- Assisting taxpayers with voluntary disclosure to the tax authorities of their historical unreported Canadian tax liabilities
- Advising on taxpayer compliance with Canadian income tax transfer pricing rules
- Advising on the application of the general anti-avoidance rule
- Advising taxpayers on their preparedness for being audited by tax authorities
- Assisting taxpayers with evaluating their uncertain tax positions and, where there is concern that the tax authorities will seek to challenge the taxpayer's tax filing position on a significant transaction, assisting the taxpayer with preserving relevant evidence and preparing contemporaneous documentation of evidentiary matters in the event of a future tax dispute in respect of the transaction
- Assisting third parties with responding to tax authority demands for documents and/or information in respect of an unrelated person or group of persons
- Advising taxpayers and garnishees in tax collection matters

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John has represented taxpayers in tax appeals at all court levels, including the reported cases listed below:

- ***TDL Holdings Co. v. The Queen, 2015 TCC 60*** — (Tax Court of Canada) deductibility of interest expense on borrowings made to acquire shares of a subsidiary
- ***Club Intrawest v. The Queen, 2015 TCC 149*** — (Tax Court of Canada) whether a timeshare operator acted as agent for the timeshare members for GST/HST purposes
- ***Ontario College of Teachers v. The Queen, 2014 TCC 130*** — (Tax Court of Canada) whether membership application processing is a taxable supply that entitled the taxpayer to claim input tax credits
- ***CCLI (1994) Inc. v. The Queen, 2006 TCC 240*** — (Tax Court of Canada) the issues were (i) the income versus capital character of foreign currency gains and losses on funds borrowed to purchase assets for a financial leasing business, and (ii) whether the Minister is entitled to adjust the composition of losses applied from other years after the expiry of the normal reassessment period
- ***Ellis Vision Incorporated v. The Queen, 2003 TCC 912*** — (Tax Court of Canada) the availability of the paragraph 20(1)(m) reserve for revenues received for the licensing of video productions attributable to future periods
- ***Canadian Pacific Limited v. The Queen, 2001 FCA 398*** — (Federal Court of Appeal) application of the GAAR to challenge interest expense incurred on multi-currency borrowing transaction
- ***Thomas N. Collins v. The Queen, 98 DTC 6281 (FCA)*** — (Federal Court of Appeal) whether the taxpayer's ownership of shares in a corporation was subject to a constructive or resulting trust in favour of his spouse
- ***Toronto College Park Ltd. v. The Queen, [1998] 1 SCR 183*** — (Supreme Court of Canada) whether the matching principle from accounting is mandated as a legal rule in the computation of profit under the Income Tax Act

John is a co-editor (with Christopher Falk) of the monthly Focus on Current Cases feature of Wolters Kluwer (formerly CCH) *Tax Topics*.

He has written on tax-related topics regularly and his published articles have included the following:

- "Can a Corporation be Represented by a Non-Lawyer in a General Procedure Appeal in the Tax Court?: *Sutlej Foods Inc. v. The Queen*" in

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Focus on Current Cases in *Tax Topics* No. 2464 (Wolters Kluwer: May 2019).

- "Evidence of Group Conduct Cannot be the Minister's Sole Basis for Opening Up a Statute-Barred Year or Imposing Penalties Against a Specific Taxpayer: *Van der Steen v. The Queen*" in Focus on Current Cases in *Tax Topics* No. 2464 (Wolters Kluwer: May 2019).
- "Arrears Interest under a GAAR Reassessment (Still) Accrues from Balance-Due Date: *Quinco Financial Inc. v. The Queen*" in Focus on Current Cases in *Tax Topics* No. 2438 (Wolters Kluwer: November 2018).
- "SR&ED Claim for Equipment Cost Tainted by Non-Qualifying Use: *VLN Advanced Technologies Inc. v. The Queen*" in Focus on Current Cases in *Tax Topics* No. 2407 (Wolters Kluwer: April 2018).
- "Back to Basics on Hearsay: *CBS Canada Holdings Co. v. The Queen (FCA)*" in Focus on Current Cases in *Tax Topics* No. 2364 (Wolters Kluwer: June 2017).
- "T1 Adjustment Request Form Submitted by Taxpayer Held to be a Reassessment Waiver: *Remtilla v. The Queen*" in Focus on Current Cases in *Tax Topics* No. 2285-86 (CCH: December 2015).
- "Federal Court of Appeal Confirms Narrow Scope of Paragraph 95(6)(b) — *Lehigh Cement*" in *International Tax Newsletter* (Carswell: May 2014).
- "Rescission Granted for Mistake of Law: *Re Patten Trust*" in Focus on Current Cases in *Tax Topics* No. 2212 (CCH: July 2014).
- "Rejected Settlement Offer does not Automatically Entitle Successful Court Litigant to Recover Enhanced Court Costs: *TransAlta Corporation v. The Queen*" in Focus on Current Cases in *Tax Topics* No. 2138 (CCH: February 2013).
- "Section 8 of the Charter and Requirements to Provide Documents and Information in Respect of Unnamed Persons" in *Tax Topics* No. 2012 (CCH: December 2012).
- "*Velcro Canada Inc. v. The Queen*, Riding Prevost Car to Victory" in *International Tax Newsletter* (Carswell: April 2012).
- "Burden of proof in a tax case revisited: *House v. The Queen*" in Focus on Current Cases in *Tax Topics* No. 2068 (CCH: October 2011).
- "*Velcro: The Undaunted Crown*" in *Canadian Tax Highlights* (Canadian Tax Foundation: April 2011) (co-authored with Chia-yi Chua).
- "The Risky Business of Canadian Tax Audits" in *International Tax Review* (June 2011) (co-authored with Chia-yi Chua).

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- "Trust Residency - Central Management and Control" in *International Tax Newsletter* (Carswell: December 2010) (co-authored with Gabrielle M.R. Richards).
- "Canadian Courts Shed Light on Transfer Pricing Cases" in *International Tax Review*, (December / January 2009) (co-authored with Deborah Toaze).

He is a sessional instructor for the Advanced Tax Seminar at the Faculty of Law at the University of Windsor.

John is a regular participant in the Donald G.H. Bowman National Tax Moot as a panelist judge. He has also been a supervising lawyer for law students from the University of Toronto and Osgoode Hall Law School who represented individuals in the Tax Court of Canada as part of the Tax Advocacy Project of Pro Bono Students of Canada (PBSC).

He graduated with an undergraduate degree from the Faculty of Applied Science (Mechanical Engineering) at the University of Toronto (BASc) in 1987. John attended law school at the University of Windsor and was called to the Ontario bar in 1995. John is a member of the Ontario Bar Association, the Canadian Tax Foundation, and the Advocates' Society.

Prior to attending law school, John worked in industry as a manufacturing engineer and he remains a member of the Professional Engineers of Ontario (PEO). Outside of the practice of law, John's personal interests include travel, golf, hockey, and cooking. He also likes blockbuster movies, and enjoys a good fictional read.

## Awards & Rankings

### International Tax Review

Highly Regarded: Indirect Tax and Tax Controversy

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## Recent Insights

- **Impact of Returns of Capital on Interest Deductibility: SCC Denies Leave in Van Steenis**  
December 11, 2019
- **Tax Court of Canada rejects Minister's upward adjustments in Cameco transfer pricing case**  
November 27, 2018
- **MLI, T1134 Deadline, and Cameco**  
November 27, 2018