

Federal Court



Cour fédérale

**Date: 20230404**

**Docket: ITA-6458-17**

**Citation: 2023 FC 467**

[ENGLISH TRANSLATION]

**IN THE MATTER OF THE *INCOME TAX ACT*,**

**and**

**IN THE MATTER OF AN ASSESSMENT OR ASSESSMENTS  
BY THE MINISTER OF NATIONAL REVENUE UNDER ONE  
OR MORE OF: *THE INCOME TAX ACT, THE CANADA  
PENSION PLAN, THE EMPLOYMENT INSURANCE ACT***

**AGAINST:**

**9232-3815 QUEBEC INC.**

**Respondent**

**and**

**8034915 CANADA INC.**

**Third-party Opponent**

**and**

**LATRAVERSE BAILIFFS INC.**

**Third Party**

## **REASONS FOR ASSESSMENT**

### **AUDREY BLANCHET, Assessment Officer**

[1] On 24 November 2020, the Court dismissed the third party's motion to oppose, with costs to his Majesty the King, the judgment creditor. On May 18, 2022, it filed with the Registry of the Court its bill of costs, together with the affidavit of Rose Laflamme dated May 5, 2022. A direction was issued by the assessment officer on November 10, 2022, setting out to the parties that the assessment would proceed in writing and informing them of the deadlines for filing their written submissions.

[2] Following the issuance of this directive, no submissions were filed by the third party-opponent in the Court file. Since the judgment creditor's bill of costs, the affidavit of Rose Laflamme and the direction of the assessment officer were all duly served on the third party-opponent, the assessment of the bill of costs should proceed.

[3] Given the absence of a challenge, I will consider the bill of costs in light of the *Federal Courts Rules*, SOR/98-106 [Rules], Tariff B and the submissions in *Dahl v Canada*, 2007 FC 192 at paragraph 2, to the effect that "the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the Tariff".

[4] After reviewing the Court file and the bill of costs, I have determined that the 5 units claimed for the preparation and filing of a contested motion, namely the response record to the third-party opposition motion (item 5), are allowed as requested.

[5] The judgment creditor claims 3 units under item 13(a) for counsel fees incurred in preparing for the hearing of the motion. This claim cannot be allowed as claimed since section 13 provides for compensation for the preparation of the “trial or hearing”, that is, it compensates hearings on the merits such as trials and judicial review hearings. Indeed, item 13 is located in section *E. Trial or Hearing* of the table to Tariff B, while the assessable services for interlocutory motions are set out in section *B. Motions*, items 4, 5 and 6. Tariff B does not contain a provision equivalent to item 13a) for interlocutory motions.

[6] After examining the Recorded Entries, I note, however, that services were rendered by the judgment creditor in preparation for the hearing of the motion, including the exchange of correspondence between the parties and the Court for the scheduling of the hearing and a request for adjournment made by the third-party opponent. In *Carlile v Canada (Minister of National Revenue - MNR)*, [1997] FCJ No 885 [*Carlile*] at para 26, the assessment officer stated that the successful party should not be penalized by denying them costs when it is clear that actual costs have been incurred and that “a result of zero dollars at taxation would be absurd”. Based on the teachings of *Carlile*, as well as the assessment officer’s comments in *Mitchell v Canada (Minister of National Revenue)*, 2003 FCA 386 at para 12, to the effect that the “best way to administer the scheme of costs in litigation is to choose positive applications of its provisions as opposed to narrower and negative ones”, I conclude from this that it is appropriate to assess the judgment creditor’s claim under section 13a) under section 27 and to allow 1 unit.

[7] With respect to the costs claimed for the assessment of this bill of costs, the judgment creditor claims 4 units, the mid-point of Column III of the table to Tariff B, representing the

default level of costs for a case of average or usual complexity (*Allergan Inc v Sandoz Canada Inc*, 2021 FC 186 at para 25). Since this is a low-complexity and uncontested assessment, the award of 2 units is more appropriate.

[8] The bill of costs of his Majesty the King, the judgment creditor, is allowed in the amount of \$280.00.

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“Audrey Blanchet”  
Assessment Officer

Ottawa, Ontario  
April 4, 2023

Certified true translation  
Janna Balkwill

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** ITA-6458-17

**STYLE OF CAUSE:** IN THE MATTER OF *THE INCOME TAX ACT*  
BETWEEN HIS MAJESTY THE KING AND 9232-  
3815 QUÉBEC INC. AND 8034915 CANADA INC.  
AND LATRAVERSE BAILIFFS INC.

**ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES**

**REASONS FOR ASSESSMENT BY:** AUDREY BLANCHET, ASSESSMENT OFFICER

**DATED:** APRIL 4, 2023

**WRITTEN SUBMISSIONS BY:**

Annie Laflamme FOR THE JUDGMENT CREDITOR

Steven Roch FOR THE THIRD-PARTY OPPONENT

**SOLICITORS OF RECORD:**

Attorney General of Canada FOR THE JUDGMENT CREDITOR  
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