

Federal Court of Appeal



Cour d'appel fédérale

Date: 20150415

Docket: A-133-14

Citation: 2015 FCA 94

**CORAM: RYER J.A.
NEAR J.A.
RENNIE J.A.**

BETWEEN:

DR. DONALD G. MACKAY, DDS

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on April 15, 2015.

Judgment delivered from the Bench at Toronto, Ontario, on April 15, 2015.

REASONS FOR JUDGMENT OF THE COURT BY:

RYER J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on April 15, 2015)

RYER J.A.

[1] This is an appeal from a decision of Justice Woods of the Tax Court of Canada (2014 TCC 33) dismissing an appeal by Dr. Donald G. MacKay from an assessment made under the *Income Tax Act* (R.S.C. 1985, c. 1 (5th Supp.)) in respect of his 2006 taxation year.

[2] This appeal is unusual in that the appellant does not argue that the amounts of tax, interest and penalties assessed against him for 2006 are incorrect. Rather, he argues that the amounts assessed as a result of the application of the formula in section 34.1 of the *Income Tax Act* are unfair and unjustified. In essence he argues that the formula in that provision of the Act ought to be changed. Unfortunately this Court has no power to amend legislation.

[3] In *Chaya v. the Queen*, 2004 FCA 327, at paragraph 4, Justice Rothstein, when he was a member of this Court, stated:

[4] ...The Court must take the statute as it finds it. It is not open to the Court to make exceptions to statutory provisions on the grounds of fairness or equity. If the applicant considers the law unfair, his remedy is with Parliament, not with the Court.

[4] Since we have not been shown that the Tax Court Judge made any error that warrants our intervention this appeal will be dismissed, without costs.

"C. Michael Ryer"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-133-14

**(APPEAL FROM THE ORDER OF THE HONOURABLE MADAM JUSTICE
JUDITH M. WOODS DATED JANUARY 30, 2014 IN THE TAX COURT OF
CANADA, DOCKET NO. 2012-2361(IT)G)**

DOCKET: A-133-14

STYLE OF CAUSE: DR. DONALD G. MACKAY, DDS
v. HER MAJESTY THE QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: APRIL 15, 2015

REASONS FOR JUDGMENT OF THE COURT BY: RYER J.A.
NEAR J.A.
RENNIE J.A.

DELIVERED FROM THE BENCH BY: RYER J.A.

APPEARANCES:

Dr. Donald G. Mackay FOR THE APPELLANT
(SELF-REPRESENTED)

Christopher Kitchen FOR THE RESPONDENT
Charles Camirand

SOLICITORS OF RECORD:

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada