

Citation: 2005TCC709  
Date: 20051103  
Docket: 2004-3604(IT)I

BETWEEN:

RENALD RANCOURT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR JUDGMENT**

[OFFICIAL ENGLISH TRANSLATION]

Justice Dussault

[1] These are appeals from assessments established under the *Income Tax Act* (the “Act”) on December 16, 2002, for the taxation years 1993, 1994, 1995, 1996, 1997, 1998, 1999 and 2000.

[2] Through these assessments, the Minister of National Revenue (the “Minister”) added to the Appellant’s income for all of these years, except for 1999, amounts which he considered to be undeclared income. For each of these years, apart from 1993 and 2000, the Minister also added to the Appellant’s income the amounts granted by the company Scierie Rénald Rancourt inc. (“Scierie R.R.”), for whom Rénald Rancourt was the sole shareholder and director, but not reimbursed.

[3] A late filing penalty was also assessed for the years 1993, 1994, 1995, 1996 and 2000. A penalty for repeated late filing was also assessed for the years 1997 and 1998.

[4] The assumptions of fact upon which the assessments are grounded are set out in paragraphs (a) through (uu) in paragraph 8 of the Reply to Notice of Appeal (“Reply”). They read as follows:

Non declared income

- (a) Over the course of the taxation years at issue, the Appellant was the sole shareholder in Scierie Régnald Rancourt inc. (hereafter the “Company”);
- (b) Over the course of the taxation years at issue, the Appellant was also director of the Company;
- (c) According to the registry of the Inspector General of Financial Institutions, the Company was created on August 15, 1986;
- (d) The Company was a sawmill operator;
- (e) Over the course of the taxation years at issue, the Appellant was also employed as a taxi driver;
- (f) An audit of the Company was performed by the Ministère du Revenu du Québec (hereafter the “MRQ”) given that the Company had failed to file its tax returns (Quebec Sales Tax and Goods and Services Tax);
- (g) The MRQ auditor noted that the Appellant had not filed income tax returns (TP-1) since 1993;
- (h) The MRQ asked the Appellant to produce its income tax returns for the taxation years from 1993 to 2000;
- (i) Over the course of the taxation years at issue, the Appellant’s Company appeared to be without books or ledgers in order;
- (j) In addition, the Appellant had no record of his taxi income;
- (k) An auditor from the MRQ analyzed the Appellant’s financial situation for each of the taxation years at issue, and proceeded:
  - (i) with the compilation of all significant transactions occurring within the bank accounts held by the Appellant and by the Company;
  - (ii) by interview with the Appellant;
- (l) The MRQ auditor noted that the Appellant’s bank account had few transactions, almost never any cheques and only enough deposits to cover the reimbursement of his loans;

- (m) The item “advance to a director” appears in the Company’s balance sheets for the taxation years from 1993 to 2000;
- (n) In 1999, the Appellant apparently liquidated all of his debts and the Company’s debts with financial institutions, by borrowing from Gestion Fernand Rancourt Inc.;
- (o) Gestion Fernand Rancourt Inc. is held by “Fiducie Familiale Fernand Rancourt,” Fernand Rancourt being the Appellant’s brother;
- (p) The sum borrowed by the Appellant from Gestion Fernand Rancourt Inc. is said to be \$135,000;
- (q) This transaction is said to have taken place on December 7, 1999;
- (r) During the period the audit was concerned with, the Appellant’s personal balance sheet did not vary with regard to assets;
- (s) The Appellant owns two significant assets, i.e.:
  - (i) A house and its lot;
  - (ii) The Company’s shares;
- (t) In light of the previously mentioned facts, MRQ auditor determined that the Appellant had not declared the following income for the years at issue (see appended table):

<u>Year</u>	<u>Undeclared income</u>	<u>Advances not reimbursed</u>
1993	\$ 22,817	\$ 0
1994	\$ 8,565	\$ 6,738
1995	\$ 7,985	\$ 4,710
1996	\$ 6,679	\$ 3,727
1997	\$ 8,057	\$ 2,995
1998	\$ 4,533	\$ 6,969
1999	\$ 0	\$ 781
2000	\$ 2,898	\$ 0

- (u) The MRQ informed the Minister of the changes made to the Appellant’s income for the taxation years at issue;

- (v) On December 16, 2002, the Minister issued reassessments to the Appellant for the taxation years from 1993 to 2000, making the same changes to the Appellant's income;

Late filing Penalty

1993

- (w) For the taxation year ending on December 31, 1993, the Appellant's tax payable after Quebec tax abatement was \$2,405.89;
- (x) The Appellant filed his income tax return for his 1993 taxation year on July 6, 2001;
- (y) Since the Appellant filed his income tax return for the 1993 taxation year on July 6, 2001, when it should have been filed on April 30, 1994, the Minister assessed him a late filing penalty in the amount of \$409.00;

1994

- (z) For the taxation year ending on December 31, 1994, the Appellant's tax payable after Quebec tax abatement was \$1,485.46;
- (aa) The Appellant filed his income tax return for his 1994 taxation year, on July 6, 2001;
- (bb) Since the Appellant filed his income tax return for the 1994 taxation year on July 6, 2001, when it should have been filed on April 30, 1995, the Minister assessed him a late filing penalty in the amount of \$252.53;

1995

- (cc) For the taxation year ending on December 31, 1995, the Appellant's tax payable after Quebec tax abatement was \$1,245.47;
- (dd) The Appellant filed his income tax return for his 1995 taxation year, on July 6, 2001;
- (ee) Since the Appellant filed his income tax return for the 1994 taxation year on July 6, 2001, when it should have been filed on April 30, 1995, the Minister assessed him a late filing penalty in the amount of 211.72\$;

1996

- (ff) For the taxation year ending on December 31, 1996, the Appellant's tax payable after Quebec tax abatement was \$1,454.97;

- (gg) The Appellant filed his income tax return for his 1996 taxation year on July 6, 2001;
- (hh) Since the Appellant filed his income tax return for the 1996 taxation year on July 6, 2001, when it should have been filed on April 30, 1997, the Minister assessed him a late filing penalty in the amount of \$247.34;

1997

- (ii) For the taxation year ending on December 31, 1997, the Appellant's tax payable after Quebec tax abatement was \$1,397.36;
- (jj) On April 25, 2001, the Minister sent the Appellant an enforcement notice requiring that his income tax return for the 1997 taxation year be filed;
- (kk) On June 5, 2001, the Minister issued the Appellant with a formal request to file an income tax return for his 1997 taxation year;
- (ll) On July 6, 2001, the Appellant filed his income tax return for his 1997 taxation year;
- (mm) Since the Appellant filed his income tax return for the 1997 taxation year on July 6, 2001, when it should have been filed on April 30, 1998, the Minister assessed him a late filing penalty in the amount of \$698.68;

1998

- (nn) For the taxation year ending on December 31, 1998, the Appellant's tax payable after Quebec tax abatement was \$361.60 ;
- (oo) On April 25, 2001, the Minister sent the Appellant an enforcement notice requiring that his income tax return for the 1998 taxation year be filed;
- (pp) On June 5, 2001, the Minister issued the Appellant with a formal request to file an income tax return for his 1998 taxation year;
- (qq) On July 6, 2001, the Appellant filed his income tax return for his 1998 taxation year;
- (rr) Since the Appellant filed his income tax return for the 1998 taxation year on July 6, 2001, when it should have been filed on April 30, 1999, the Minister assessed him a late filing penalty in the amount of \$680.80;

2000

- (ss) For the taxation year ending on December 31, 2000, the Appellant's tax payable after Quebec tax abatement was \$162.44;
- (tt) On July 6, 2001, the Appellant filed his income tax return for his 2000 taxation year;
- (uu) Since the Appellant filed his income tax return for the 1998 taxation year on July 6, 2001, when it should have been filed on April 30, 1999, the Minister assessed him a late filing penalty in the amount of \$11.37.

[5] Two tables are appended to the Reply. Table 1 details the calculations of undeclared income. Table 2 details the variations in the advances granted to the Appellant by Scierie R.R.

[6] The main point contested by the Appellant concerns the amounts of the advances by Scierie R.R. added to his income since he claims that Scierie R.R. also owed him sums that he invested in it over the years. The sums thus owed the Appellant by Scierie R.R. would have then been indicated in the financial statements as long-term debt without repayment terms.

[7] Despite the numerous documents introduced in evidence by the Appellant, it is impossible to establish that any amount was owed him by Scierie R.R. The origin and the amount of the Appellant's investments in the form of loans cannot be retraced, in particular because the Appellant also invested in Scierie R.R. by equity subscription, and conciliation of the various transactions is simply impossible. The Appellant, moreover, has never been able to say whether or not he had received interest on the sum he claims to be owed by Scierie R.R.

[8] I will add to these reasons, already set out orally at the hearing, that even if one can assume that Scierie R.R. had a long term debt to the Appellant, it would have to be demonstrated — which has not been done — how there could have been any compensation between this long term debt and the annual advances granted the Appellant by Scierie R.R., for the purposes of the application of subsection 15(2) of the Act.

[9] As for the other amounts included in the Appellant's income as undeclared income, they are the direct result of the cost of living assessment by the auditor (Exhibit I-7) and the Appellant did not present any evidence that this assessment was erroneous in any way.

[10] Finally, I will add that the penalties for late filing and repeated late filing are justified in the circumstances set out in the Reply.

[11] Accordingly, the appeals are dismissed.

Signed at Ottawa, Canada, this 3rd day of November 2005.

“ P. R. Dussault “

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Dussault J.

Translation certified true  
on this 21st day of August 2006.  
Gibson Boyd, Translator

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COURT DOCKET NUMBER: 2004-3604(IT)I

STYLE OF CAUSE: RENALD RANCOURT v. HER MAJESTY  
THE QUEEN

DATES OF HEARINGS: May 12, 2005, at Sherbrooke, Québec  
September 16, 2005, at Montréal, Québec

REASONS FOR JUDGMENT BY: The Honourable Justice Pierre R. Dussault

DATE OF JUDGMENT: September 20, 2005

DATE OF REASONS  
FOR JUDGMENT: November 3, 2005

APPEARANCES:

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