

BETWEEN:

SYLVAIN SIMARD,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Motion determined by written representations at Ottawa, Canada

Before: The Honourable Justice Dominique Lafleur

Appearances:

Counsel for the Appellant:	Jean Dauphinais Cédric Fortin-Néron
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Counsel for the Respondent:	Emmanuel Jilwan
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ORDER

UPON reading the Respondent's Notice of Motion (the "Motion") dated February 26, 2024, seeking an order:

- 1- to strike out paragraphs 3 to 22 of the Amended Notice of Appeal dated January 23, 2024 (the "Notice of Appeal"), in accordance with section 53 of the *Tax Court of Canada Rules (General Procedure)* (the "Rules"), and to require the Appellant to re-amend the Notice of Appeal to comply with section 48 of the Rules and with Form 21(1)(a) of the Rules by precisely relating the material facts relied on, specifying the issues to be decided, referring to the statutory provisions relied on and setting forth the reasons the Appellant intends to rely on;

- 2- to grant the Appellant 60 days from the date of this order within which to file and serve an amended notice of appeal that complies with the Rules;
- 3- to grant the Respondent 60 days from the date on which the amended notice of appeal is served within which to file and serve the reply to the amended notice of appeal;
- 4- or, alternatively, to extend by 60 days from the date of this order the time within which to file and serve the reply to the notice of appeal.

UPON reading the documents filed in the record and the request that the Motion be disposed of in writing and without appearance by the parties;

AND UPON reading the written representations of the parties;

THE COURT ORDERS as follows:

1. In accordance with the attached Reasons for Order, the Motion is granted in part, with costs to the Respondent, and paragraphs 3 to 14 and paragraphs 17 to 22 of the Notice of Appeal are struck out;
2. The Appellant must re-amend the Notice of Appeal to render it compliant with these Reasons for Order, namely, by striking out paragraphs 3 to 14 and paragraphs 17 to 22 of the Notice of Appeal, relating the material facts relied on, specifying the issues to be decided, referring to the statutory provisions relied on and setting forth the reasons the Appellant intends to rely on;
3. No later than 60 days from the date of this order, the Appellant must file and serve an amended notice of appeal that complies with these Reasons for Order; and

4. No later than 60 days from the date the amended notice of appeal is served in accordance with these Reasons for Order, the Respondent must file and serve his reply to the amended notice of appeal.

Signed at Montréal, Quebec, this 30th day of July 2024.

“Dominique Lafleur”

Lafleur J.

Translation certified true
On this 29th day of May 2025

Margarita Gorbounova, Senior Jurilinguist

Citation: 2024 TCC 104
Date: 20240730
Docket: 2021-1010(IT)G

BETWEEN:

SYLVAIN SIMARD,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR ORDER

Lafleur J.

I. The Motion

[1] The Respondent filed a Notice of Motion (the “Motion”) dated February 26, 2024, seeking an order to strike out paragraphs 3 to 22 of the Amended Notice of Appeal, which was filed on January 23, 2024 (the “Notice of Appeal”), in accordance with section 53 of the *Tax Court of Canada Rules (General Procedure)* (the “Rules”) and to grant the Appellant leave to re-amend the Notice of Appeal so that it complies with the Rules, namely, with section 48 and with Form 21(1)(a), by relating the material facts relied on, specifying the issues to be decided, referring to the statutory provisions relied on and setting forth the reasons the Appellant intends to rely on.

II. Conclusion

[2] The Motion is allowed in part, with costs to the Respondent, and paragraphs 3 to 14 and paragraphs 17 to 22 of the Notice of Appeal are struck out.

[3] The Appellant must re-amend the Notice of Appeal to render it compliant with these Reasons for Order, namely, by striking out paragraphs 3 to 14 and paragraphs 17 to 22 of the Notice of Appeal, relating the material facts relied on, specifying the issues to be decided, referring to the statutory provisions relied on and setting forth the reasons the Appellant intends to rely on.

III. Facts

[4] The Appellant is appealing from reassessments made by the Minister of National Revenue (the “Minister”) by which a total of \$482,474 was added to his income as appropriation of funds under the *Income Tax Act* (R.S.C. 1985, c. 1 (5th Supp.)) (the “Act”) for the 2007 to 2011 taxation years.

[5] According to the Notice of Appeal, the reassessments are unjustified because, given that the reassessments at issue were made solely on the basis of the audit conducted by the Agence du Revenu du Québec (the “ARQ”) and that the ARQ amended its own assessments by reducing the amount added to the Appellant’s income by \$269,033 following an agreement between the ARQ and the Appellant, the Minister should have reassessed the Appellant in accordance with the agreement between the ARQ and the Appellant, which was not done.

[6] According to the Respondent, the Notice of Appeal does not comply with the Rules because, on its face, it contains no material facts relied on, no issues that the Court has jurisdiction to decide, no statutory provisions relied on and no clear and concise reasons the Appellant intends to rely on. The deficiencies in the Notice of Appeal therefore prevent the Respondent from preparing a reply to the notice of appeal. In addition, paragraphs 3 to 22 of the Notice of Appeal refer to allegations of fact that are outside the Court’s jurisdiction, and accordingly they disclose no reasonable grounds for appeal since they are based on the actions of Canada Revenue Agency (the “CRA”) staff at the objection stage.

[7] As for the Appellant, he alleges that the Notice of Appeal complies with the Rules. More specifically, according to the Appellant, the Notice of Appeal does not deal with the process that led up to the reassessments, but rather with the fact that the reassessments are not valid because they do not comply with the assessments made by the ARQ, which reduced the amount that had been added to the Appellant’s income by \$269,033. According to the Appellant, since the CRA did not audit him, the Minister should have assessed the Appellant on the basis of the ARQ’s assessments. If this was not so, [TRANSLATION] “...it would be disproportionate to require a taxpayer to make a second time the same objections that he or she already made before one of the revenue agencies and that were successful”. In addition, according to the Appellant, the Respondent is able to clearly identify the arguments to which he must respond.

IV. Applicable general principles

A. Format of notices of appeal

[8] In accordance with section 17.2 of the *Tax Court of Canada Act*, R.S.C. 1985, c. T-2 (the “TCC Act”), a person wishing to appeal to this Court under the general procedure must file an originating document in the form and manner set out in the Rules and pay the applicable filing fee.

[9] The relevant provisions of the Rules read as follows:

<p>21 (1) Filing — Every proceeding to which the general procedure in the Act applies shall be instituted by filing an originating document in the Registry</p> <p>(a) in Form 21(1)(a) in the case of an appeal from an assessment under the <i>Income Tax Act</i> ...</p> <p>...</p> <p>48 Rules of Pleadings — Applicable to Notice of Appeal — Every notice of appeal shall be in Form 21(1)(a), (d), (e) or (f).</p>	<p>21 (1) Dépôt — Toute instance régie par la procédure générale prévue dans la Loi s’introduit par dépôt au greffe d’un acte introductif d’instance établi selon l’une des formules suivantes :</p> <p>a) formule 21(1)a) en cas d’appel formé contre une cotisation établie en application de la <i>Loi de l’impôt sur le revenu</i> ...</p> <p>...</p> <p>48 Règles applicables à l’avis d’appel — L’avis d’appel doit se conformer aux formules 21(1)a), d), e) ou f).</p>
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[10] Form 21(1)(a) applies for the purposes of an appeal under the Act and is reproduced below:

FORM 21(1)(a)
NOTICE OF APPEAL — GENERAL PROCEDURE
TAX COURT OF CANADA

BETWEEN:

(name)
and
HIS MAJESTY THE KING,

Appellant,

Respondent.

NOTICE OF APPEAL

(a) In the case of an individual state home address in full and in the case of a corporation state address in full of principal place of business in the province in which the appeal is being instituted,

(b) Identify the assessment(s) under appeal: include date of assessment(s) and, if the appeal is under the *Income Tax Act*, include taxation year(s) or, if the appeal is under the *Excise Tax Act*, the *Customs Act*, the *Air Travellers Security Charge Act*, the *Excise Act, 2001* or the *Softwood Lumber Products Export Charge Act, 2006*, include the period to which the assessment(s) relate(s),

(c) Relate the material facts relied on,

(d) Specify the issues to be decided,

(e) Refer to the statutory provisions relied on,

(f) Set forth the reasons the appellant intends to rely on,

(g) Indicate the relief sought, and

(h) Date of notice.

(Name of appellant or appellant's counsel)

(Address for service, telephone number, fax number, if any, of appellant's counsel or, if appellant is appearing in person, state telephone number or fax number, if any)

(FORM AS AMENDED BY SOR/92-41, s. 4; SOR/2004-100, s.28; SOR/2007-142, s. 18; SOR/2008-303, s. 21.)

[11] As the Court noted in *Kondur v. The Queen*, 2015 TCC 318:

... It is a mandatory requirement of pleading in the General Procedure that the notice of appeal or any amended version of it contain all of the specifications of Form 21(1)(a) ... This is not just a formality. The purpose of these requirements is to ensure that the issues are properly defined for discovery and trial so that the Respondent will know what arguments she must meet: *Bibby v The Queen*, 2009 TCC 588.

B. Striking out a pleading

[12] The power to strike out all or part of a pleading is set out in section 53 of the Rules, which reads as follows:

<p>53 (1) The Court may, on its own initiative or on application by a party, strike out or expunge all or part of a pleading or other document with or without leave to amend, on the ground that the pleading or other document</p> <p>(a) may prejudice or delay the fair hearing of the appeal;</p> <p>(b) is scandalous, frivolous or vexatious;</p> <p>(c) is an abuse of the process of the Court; or</p> <p>(d) discloses no reasonable grounds for appeal or opposing the appeal.</p> <p>(2) No evidence is admissible on an application under paragraph (1)(d).</p> <p>(3) On application by the respondent, the Court may quash an appeal if</p> <p>(a) the Court has no jurisdiction over the subject matter of the appeal;</p> <p>(b) a condition precedent to instituting an appeal has not been met; or</p>	<p>53 (1) La Cour peut, de son propre chef ou à la demande d'une partie, radier un acte de procédure ou tout autre document ou en supprimer des passages, en tout ou en partie, avec ou sans autorisation de le modifier parce que l'acte ou le document :</p> <p>a) peut compromettre ou retarder l'instruction équitable de l'appel;</p> <p>b) est scandaleux, frivole ou vexatoire;</p> <p>c) constitue un recours abusif à la Cour;</p> <p>d) ne révèle aucun moyen raisonnable d'appel ou de contestation de l'appel.</p> <p>(2) Aucune preuve n'est admissible à l'égard d'une demande présentée en vertu de l'alinéa (1)d).</p> <p>(3) À la demande de l'intimé, la Cour peut casser un appel si :</p> <p>a) elle n'a pas compétence sur l'objet de l'appel;</p> <p>b) une condition préalable pour interjeter appel n'a pas été satisfaite;</p> <p>c) l'appelant n'a pas la capacité juridique</p>
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(c) the appellant is without legal capacity to commence or continue the proceeding.	d'introduire ou de continuer l'instance.
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[13] In *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42, the Supreme Court of Canada established the principles for striking out claims. A motion to strike must be used with care and is “a valuable housekeeping measure essential to effective and fair litigation”. “It unclutters the proceedings, weeding out the hopeless claims and ensuring that those that have some chance of success go on to trial” (para. 19). Therefore, the test developed by the Supreme Court is as follows:

... The court must rather ask whether, assuming the facts pleaded are true, there is a reasonable prospect that the claim will succeed. The approach must be generous and err on the side of permitting a novel but arguable claim to proceed to trial. (para. 21)

[14] In my view, these principles also apply to the circumstances of this case, even though only certain excerpts of the Notice of Appeal are requested to be struck out.

[15] The test for granting a motion to strike is therefore rigorous. The Court must not strike out all or part of a pleading unless it is plain and obvious that, among other things, it discloses no reasonable claim and that the appeal has no chance of success (*Main Rehabilitation Co. Ltd. v. The Queen*, 2004 FCA 403, at para. 3).

[16] To determine whether all or part of a pleading must be struck out, the facts set out in the pleading are assumed to be true, and the Court hears no witnesses. As specified by this Court in *881751 Ontario Limited v. The Queen*, *Roy v. The Queen*, 2021 TCC 9 (at para. 15) [*881751 Ontario*]:

... The Court’s approach must be generous and err on the side of permitting a novel but arguable claim to proceed to trial. It is not the job of a Motions judge to determine if an argument is worth considering or to reach a conclusion on a disputed point of statutory interpretation. Therefore, for a Motion to strike to succeed, the irregularity or the irrelevancy must be clear and apparent at first glance.

C. The Court's jurisdiction

[17] The Court's jurisdiction is defined in the legislation. Subsection 12(1) of the TCC Act reads as follows:

<p>12(1) Jurisdiction — The Court has exclusive original jurisdiction to hear and determine references and appeals to the Court on matters arising under the <i>Canada Pension Plan</i>, the <i>Cultural Property Export and Import Act</i>, Part IX of the <i>Excise Tax Act</i>, the <i>Old Age Security Act</i>, the <i>Petroleum and Gas Revenue Tax Act</i>, Part V.1 of the <i>Customs Act</i>, the <i>Income Tax Act</i>, the <i>Employment Insurance Act</i>, the <i>Air Travellers Security Charge Act</i>, the <i>Excise Act, 2001</i>, the <i>Softwood Lumber Products Export Charge Act, 2006</i>, the <i>Disability Tax Credit Promoters Restrictions Act</i>, Part 1 of the <i>Greenhouse Gas Pollution Pricing Act</i>, the <i>Underused Housing Tax Act</i> and the <i>Select Luxury Items Tax Act</i> when references or appeals to the Court are provided for in those Acts.</p>	<p>12(1) Compétence — La Cour a compétence exclusive pour entendre les renvois et les appels portés devant elle sur les questions découlant de l'application du <i>Régime de pensions du Canada</i>, de la <i>Loi sur l'exportation et l'importation de biens culturels</i>, de la partie IX de la <i>Loi sur la taxe d'accise</i>, de la <i>Loi sur la sécurité de la vieillesse</i>, de la <i>Loi de l'impôt sur les revenus pétroliers</i>, de la partie V.1 de la <i>Loi sur les douanes</i>, de la <i>Loi de l'impôt sur le revenu</i>, de la <i>Loi sur l'assurance-emploi</i>, de la <i>Loi sur le droit pour la sécurité des passagers du transport aérien</i>, de la <i>Loi de 2001 sur l'accise</i>, de la <i>Loi de 2006 sur les droits d'exportation de produits de bois d'œuvre</i>, de la <i>Loi sur les restrictions applicables aux promoteurs du crédit d'impôt pour personnes handicapées</i>, de la partie 1 de la <i>Loi sur la tarification de la pollution causée par les gaz à effet de serre</i>, de la <i>Loi sur la taxe sur les logements sous-utilisés</i> et de la <i>Loi sur la taxe sur certains biens de luxe</i>, dans la mesure où ces lois prévoient un droit de renvoi ou d'appel devant elle.</p>
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[18] In *Canada (National Revenue) v. JP Morgan Asset Management (Canada) Inc.*, 2013 FCA 250, the Federal Court of Appeal concluded as follows:

[83] The Tax Court does not have jurisdiction on an appeal to set aside an assessment on the basis of reprehensible conduct by the Minister leading up to the assessment, such as abuse of power or unfairness ... If an assessment is correct on the facts and the law, the taxpayer is liable for the tax. ...

[19] Similarly, in *Ereiser v. Canada*, 2013 FCA 20 [*Ereiser*], Justice Sharlow stated the following:

[31] ... [T]he role of the Tax Court of Canada in an appeal of an income tax assessment is to determine the validity and correctness of the assessment based on the relevant provisions of the *Income Tax Act* and the facts giving rise to the taxpayer's statutory liability. Logically, the conduct of a tax official who authorizes an assessment is not relevant to the determination of that statutory liability. ...

[Emphasis added.]

[20] These well-settled principles were recently affirmed by the Supreme Court of Canada in *Iris Technologies Inc. v. Canada (Attorney General)*, 2024 SCC 24.

[21] Furthermore, section 171 of the Act provides that the Court may dispose of an appeal by dismissing it or by allowing it and vacating the assessment, varying the assessment or referring the assessment back to the Minister for reconsideration and reassessment.

V. ANALYSIS

[22] In this case, the Notice of Appeal (a copy of which is enclosed in Appendix A to these Reasons) clearly does not meet the requirements of the TCC Act or of the Rules for several reasons described below.

[23] First, the Notice of Appeal contains no references to the statutory provisions relied on, contrary to the requirement in paragraph (e) of Form 21(1)(a) of the Rules.

[24] In addition, there are no material facts relied on in the Notice of Appeal, contrary to the requirement in paragraph (c) of Form 21(1)(a) of the Rules. The Respondent is not in a position to file a reply because the facts described in the Notice of Appeal do not allow the Respondent to determine the cause of action in this case.

[25] More specifically, paragraphs 3 to 14 and paragraphs 17 to 19 describe the process that led up to the assessments and the reassessments at issue. Those

paragraphs refer to the fact that the assessments were made following the audit conducted by the ARQ and the exchange of information between the federal and provincial tax authorities, that the objection process at the federal level was suspended while awaiting the results of the objection at the provincial level, that the ARQ then reduced the amounts assessed as appropriation of funds by \$269,033 to reassess the Appellant for a total of \$213,441 (and detailing the amounts assessed as such for each year) and that the Appellant appealed to the Court of Québec. They also refer to the agreement between the parties with respect to the provincial income tax assessments.

[26] The facts detailed at paragraphs 3 to 14 and paragraphs 17 to 19 are not material facts that can be relied on and are outside the Court's jurisdiction because these facts describe the process that led up to the reassessments at issue and refer to the actions of CRA officials. As noted above, the Court's jurisdiction is limited to determining the validity and correctness of the assessments at issue based on the relevant provisions of the Act and the facts giving rise to the taxpayer's statutory liability, not to evaluating the conduct of the CRA official who authorized the assessments (see *Ereiser, supra*, at para. 31) or the process that led up to the assessments.

[27] In addition, the issue described at paragraph 20 of the Notice of Appeal as being [TRANSLATION] "whether the Respondent should have based his Assessments on the Revised ARQ Assessments" is not an issue that falls within the Court's jurisdiction. As noted below, the Court's jurisdiction is to determine the validity and correctness of the assessments at issue based on the relevant facts and the application of the Act to those facts. Since paragraph 20 of the Notice of Appeal is the only paragraph that deals with the issue, the Notice of Appeal does not specify the issues to be decided, contrary to the requirement in paragraph (d) of Form 21(1)(a) of the Rules.

[28] Finally, the Notice of Appeal does not set forth the reasons the Appellant intends to rely on. Indeed, only paragraphs 21 and 22 of the Notice of Appeal contain the Appellant's arguments. According to those paragraphs, the Appellant alleges that the assessments are unjustified and that [TRANSLATION] "... the Respondent should have based his Assessments of the Appellant on the Revised ARQ Assessments ...". These are not reasons that the Appellant can rely on to dispute an assessment because there is no reference to the facts or to the application of the Act to the material facts to determine the Appellant's tax obligations. Thus, the Notice of Appeal does not set forth the reasons the Appellant intends to rely on, contrary to the requirement in paragraph (f) of Form 21(1)(a) of the Rules.

[29] The Respondent is correct in requesting that paragraphs 3 to 14 and paragraphs 17 to 22 be struck out. First, as stated in the case law, to strike out a pleading, "... the irregularity or the irrelevancy must be clear and apparent at first glance" (881751 *Ontario*, *supra*). As mentioned above, the Notice of Appeal clearly does not meet the requirements of the TCC Act and the Rules. In addition, the findings sought by the Appellant are clearly outside the Court's jurisdiction. Thus, in accordance with section 53 of the Rules, the Court may order these paragraphs to be struck out.

[30] Given the deficiencies of the Notice of Appeal, it is clear that it must be amended. However, irregular pleadings are simply an irregularity under section 7 of the Rules (see *Okoroze v. The Queen*, 2012 TCC 360 and *Kossow v. The Queen*, 2008 TCC 422), which reads as follows:

<p>7 Effect of Non-compliance — A failure to comply with these rules is an irregularity and does not render a proceeding or a step, document or direction in a proceeding a nullity, and the Court,</p> <p>(a) may grant all necessary amendments or other relief, on such terms as are just, to secure the just determination of the real matters in dispute, or</p> <p>(b) only where and as necessary in the interests of justice, may set aside the proceeding or a step, document or direction in the proceeding in whole or in part.</p>	<p>7 Effet de l'inobservation — L'inobservation des présentes règles constitue une irrégularité et n'est pas cause de nullité de l'instance ni d'une mesure prise, d'un document donné ou d'une directive rendue dans le cadre de celle-ci. La Cour peut :</p> <p>a) soit autoriser les modifications ou accorder les conclusions recherchées, à des conditions appropriées, afin d'assurer une résolution équitable des véritables questions en litige;</p> <p>b) soit annuler l'instance ou une mesure prise, un document donné ou une directive rendue dans le cadre de celle-ci, en tout ou en partie, seulement si cela est nécessaire dans l'intérêt de la justice.</p>
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[31] The deficiencies in the Notice of Appeal are very significant. In my view, the correct solution is to strike out paragraphs 3 to 14 and paragraphs 17 to 22 of the Notice of Appeal and to allow the Appellant to file a re-amended notice of appeal that complies with the requirements of the TCC Act and the Rules, and more specifically, a notice of appeal that complies with Form 21(1)(a) of the Rules.

[32] In his re-amended notice of appeal, the Appellant must relate the material facts relied on, specify the issues to be decided, refer to the statutory provisions relied on and set forth the reasons he intends to rely on. In addition, the Appellant must not seek a finding that is outside the Court's jurisdiction.

Signed at Montréal, Quebec, this 30th day of July 2024.

“Dominique Lafleur”

Lafleur J.

Translation certified true
on this 29th day of May 2025

Margarita Gorbounova, Senior Jurilinguist

[TRANSLATION]

APPENDIX ADOCKET: 2021-1010(IT)G

AMENDED NOTICE OF APPEAL – GENERAL PROCEDURE

TAX COURT OF CANADA

TAX COURT OF CANADA
COUR CANADIENNE DE L'IMPÔT
Filed / Déposé
23/01/2024
Registry Officer/
agent du greffe

In the matter of the *Income Tax Act*

BETWEEN:

SYLVAIN SIMARD
179 De La Terrasse du Fjord Street
Saguenay, Quebec G7G 5C8

Appellant

AND

HIS MAJESTY THE KING

Respondent

**AMENDED NOTICE OF APPEAL
JANUARY 23, 2024**

The Appellant is filing an **AMENDED NOTICE OF APPEAL ON JANUARY 23, 2024**, in relation to the notices of assessment issued in July 2013 (hereinafter the “**Assessments**”) by the Canada Revenue Agency (hereinafter the “**CRA**”) for the 2007 to 2011 taxation years (hereinafter the “**Years at Issue**”).

A. FACTS

1. The Appellant works as a doctor in Saguenay (Jonquière borough), providing services in medical esthetics;
2. The Appellant objected to the Assessments by filing, on or about October 3, 2013, a Notice of Objection within the prescribed time limit (hereinafter the “**Notice of Objection**”);

CAIN LAMARRE
AVOCATS / S. E. N. C. R. L.

Received / Reçu 23/01/2024

3. The Assessments were issued following the transfer to the CRA by the Agence de Revenu du Québec (hereinafter the “**ARQ**”) of information collected following an audit conducted by the ARQ;
4. Thus, to issue the Assessments, the CRA based itself solely on the outcome of the audit conducted by the ARQ without conducting its own audit of the Appellant;
5. As a result, after the Assessments were issued and the Notice of Objection filed, the Assessment file was suspended pending the final outcome of the provincial assessments;
6. On February 11, 2013, following an audit, the ARQ issued the notices of income tax assessment (hereinafter the “**First ARQ Assessments**”) for the Years at Issue for a total of \$482,474 in appropriation of funds;

Year	Appropriation of funds
2007	\$35,521
2008	\$78,135
2009	\$114,153
2010	\$126,149
2011	\$128,516
TOTAL	\$482,474

7. The Appellant objected to the First ARQ Assessments;
8. Given the Appellant’s submissions, the ARQ lowered the amounts initially assessed as appropriation of funds;
9. In fact, on July 22, 23 and 24, 2014, following the objection, the ARQ issued new notices of assessment (hereinafter the “**Revised ARQ Assessments**”), lowering by \$269,033 the amounts initially assessed as appropriation of funds;
10. The Revised ARQ Assessments for the Years at Issue therefore total \$213,441 in appropriation of funds;

Year	Appropriation of funds
2007	\$18,194
2008	\$34,915
2009	\$49,563
2010	\$51,787

2011	\$58,982
TOTAL	\$213,441

11. On October 3, 2014, the Appellant again objected to the Revised ARQ Assessments;
12. On July 6, 2017, the ARQ confirmed the Revised ARQ Assessments;
13. On October 3, 2017, the Appellant appealed to the Court of Québec from the Revised ARQ Assessments;
14. On November 19, 2019, the Appellant and the ARQ settled the dispute between them out of court;
15. Following the settlement between the Appellant and the ARQ, the CRA issued, on or about October 29, 2020, a notice of confirmation of the Assessments under the *Income Tax Act* (“ITA”) for the Years at Issue;
16. In these Assessments, the CRA added the following additional amounts to the Appellant’s income:

Year	Appropriation of funds
2007	\$35,521
2008	\$78,135
2009	\$114,153
2010	\$126,149
2011	\$128,516
TOTAL	\$482,474

17. The Assessments reproduce and are incorrectly based on the First ARQ Assessments;
18. In fact, the CRA had to correct its assessments on the basis of the latest assessments issued by the ARQ, that is, the Revised ARQ Assessments;
19. Because of this, the CRA has unduly added to the Appellant’s income \$269,033 in appropriation of funds, even though that amount had been removed from the First ARQ Assessments following the Appellant’s objection;

B. ISSUES

20. The issue in this appeal is as follows:
 - (a) Whether the Respondent should have based his Assessments on the Revised ARQ Assessments.

C. APPELLANT'S ARGUMENTS

21. The Appellant respectfully submits that the Respondent's Assessments are unjustified in the circumstances;
22. As mentioned, the Respondent should have based his assessments of the Appellant on the Revised ARQ Assessments, which had lowered the amounts assessed as appropriation of funds by \$269,033, the income adjustment for the Appellant for the Years at Issue therefore totalling \$213,441;
23. The Appellant respectfully submits that the Assessments issued by the Respondent for the Years at Issue are not well founded in fact or in law.

D. CONCLUSIONS

On the basis of the foregoing, the Appellant is asking the Honourable Court to:

- **ALLOW** this appeal;
- **REFER** the assessments back to the Minister for reconsideration and reassessment;
- **WITH COSTS.**

Chicoutimi, January 23, 2024



Jean Dauphinais / Cédric Fortin-Néron
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AVOCATS / S. E. N. C. R. L.

**TAX COURT OF CANADA
(GENERAL PROCEDURE)**

DOCKET: 2021-1010(IT)G

SYLVAIN SIMARD

Appellant

-V-

HIS MAJESTY THE KING

Respondent

**AMENDED NOTICE OF APPEAL
JANUARY 23, 2024**

Our file: 10-24-1058

Jean Dauphinais / Cédric Fortin-Néron, Counsel for the
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CITATION:	2024 TCC 104
COURT FILE NO.:	2021-1010(IT)G
STYLE OF CAUSE:	SYLVAIN SIMARD v. HIS MAJESTY THE KING
PLACE OF HEARING:	Ottawa, Canada
DATES OF MOTION AND WRITTEN REPRESENTATIONS:	February 26, 2024, and May 31, 2024
REASONS FOR ORDER BY:	The Honourable Justice Dominique Lafleur
DATE OF ORDER:	July 30, 2024

APPEARANCES:

Counsel for the Appellant:	Jean Dauphinais Cédric Fortin-Néron
Counsel for the Respondent:	Emmanuel Jilwan

COUNSEL OF RECORD:

For the Appellant:

Name:	Jean Dauphinais Cédric Fortin-Néron
Firm:	Cain Lamarre, L.L.P.

For the Respondent:	Shalene Curtis-Micallef Deputy Attorney General of Canada Ottawa, Canada
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