Dockets: 2022-3190(IT)I
2022-3191(IT)I
2022-3192(IT)I
2022-3193(IT)I
2022-3197(IT)I

BETWEEN:

CHRISTOPHER FULTZ,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.
(Moving Party)

Motion of the Respondent filed in writing on November 29, 2024

Before: The Honourable Justice Perry Derksen

Participants:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Erin Wolfe

JUDGMENT

In accordance with the attached Reasons for Judgment:

1. The appeals from assessments/reassessments made under the *Income Tax Act* in respect of the Appellant's 2013, 2014, 2015, 2016 and 2020 taxation years are quashed; and

2. There will be no award of costs in respect of the motions in these appeals.

Signed this 30th day of April 2025.

"Perry Derksen"

Derksen J.

Dockets: 2022-3194(IT)I
2022-3195(IT)I
2022-3196(IT)I

BETWEEN:

CHRISTOPHER FULTZ,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.
(Moving Party)

Motion of the Respondent filed in writing on November 29, 2024

Before: The Honourable Justice Perry Derksen

Participants:

For the Appellant: The Appellant himself

Counsel for the Respondent: Erin Wolfe

ORDER

In accordance with the attached Reasons for Order:

1. The following paragraphs will be struck from the notices of appeal filed in respect of the appellant's 2017, 2018, and 2019 taxation years:

> Paragraphs (d)1, (d)2, (d)3, (d)4, (d)5, (d)6, (d)7, (d)8, (d)12, (d)13, (d)14, (d)15, d(16), (e)1, (e)2, (e)3, (e)4, (e)5, (e)6, (e)7, (e)8, (f)1 and (f)2.

2. The appellant is granted leave of this Court to amend the notices of appeal to plead the necessary material facts and relief sought with respect to the following:

a. The nature and amount of the business expenses that the appellant alleges he is entitled to deduct beyond those already allowed by the Minister;

b. The amount of the business losses that the appellant alleges he incurred, and the taxation years in which those losses were incurred;

c. The amount of any ABIL that the appellant alleges he is entitled to claim from the disposition of any property, and the relevant taxation year; and

d. Any other specific errors that the appellant alleges were made with respect to the correctness of the assessments under appeal for the 2017, 2018 and 2019 taxation years.

3. The appellant will have 45 days from the date of this Order to serve and file amended notices of appeal. Thereafter, the Crown will have 60 days to file and serve amended replies.

4. The appellant shall make clear that he is electing to have the informal procedure apply in accordance with s. 18(1) of the *Tax Court of Canada Act*, if intended.

5. Costs of the motions in these appeals shall be left to be determined by the Trial Judge.

Signed this 30th day of April 2025.

"Perry Derksen"

Derksen J.

Citation: 2025 TCC 64
Date: 20250430
Dockets: 2022-3190(IT)I
2022-3191(IT)I
2022-3192(IT)I
2022-3193(IT)I
2022-3194(IT)I
2022-3195(IT)I
2022-3196(IT)I
2022-3197(IT)I

BETWEEN:

CHRISTOPHER FULTZ,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.
(Moving Party)

REASONS FOR JUDGMENT AND
REASONS FOR ORDER

Derksen J.

I. Overview

[1] The appellant has filed eight separate appeals under the informal procedure in s. 18 of the *Tax Court of Canada Act* (TCC Act) with respect to the 2013 to 2020 taxation years. The appeals were previously scheduled for hearing but were adjourned several times. Due to the delays in moving the appeals forward, the Chief Justice (St-Hilaire C.J.) held a status hearing and, upon hearing from the parties, issued an order establishing deadlines for the Crown to bring a motion to quash to be disposed of upon consideration of written representations and without the appearance of the parties. The Crown's motion record and the appellant's written representations were filed within the deadlines established by St-Hilaire C.J.'s Order.

[2] The appellant is a practicing solicitor and is representing himself. By filing eight separate appeals, there is an enormous amount of duplication in the Court files. Moreover, the notices of appeal are scattershot. The Crown raises various preliminary matters and relies on s. 53 of the *Tax Court of Canada Rules (General Procedure)* (the General Procedure Rules), even though these appeals were filed under the informal procedure.

[3] My task is to sift through the notices of appeal and the Crown's motion record to determine whether the appellant's appeals for the 2013, 2014, 2015, 2016, and 2020 taxation years should be quashed and whether parts of the appellant's notices of appeal for the 2017, 2018, and 2019 taxation years should be struck.

II. Should the appeals for the 2013 to 2016 Taxation Years be Quashed?

[4] The Crown seeks an Order quashing the appeals for the 2013 to 2016 taxation years, and relies on ss. 53(1)(c), 53(1)(d), 53(3)(a) and 53(3)(b) of the General Procedure Rules.

[5] No right of appeal is available to the appellant under s. 169(1) of the *Income Tax Act* (ITA) for the 2013 to 2016 taxation years, and as such those appeals must be quashed. My reasoning follows.

[6] I have two initial observations.

[7] First, I agree that there may be instances where this Court will resort to the General Procedure Rules in an appeal under the informal procedure. But prior decisions of this Court have cautioned that resorting to the General Procedure Rules should be limited to those occasions when a procedure is required: *Hinz v. MNR*, 2003 TCC 727 at para. 4; and see *Veitch Holdings Ltd. v. The Queen*, 2009 TCC 197 at paras. 4–5.

[8] Second, "quashing" an appeal and "striking" a pleading should not be conflated. Paragraphs 53(1)(c) and 53(1)(d) of the General Procedure Rules deal with motions to "strike" on the grounds that a pleading is an abuse of process of the Court (s. 53(1)(c)) or discloses no reasonable grounds for appeal or opposing the appeal (s. 53(1)(d)). In contrast, s. 53(3) of the General Procedure Rules concerns circumstances where the Court may quash an appeal. The Court will quash an appeal, in part, where the Court has no jurisdiction over the subject matter of the appeal (s.

53(3)(a)) or where a condition precedent to instituting an appeal has not been met (s. 53(3)(b)).

[9] In my view, there is no need to resort to the General Procedure Rules for this Court to quash an appeal brought under the informal procedure. Moreover, a motion to quash an appeal under the informal procedure is generally raised in the Crown's reply and dealt with at the beginning of the hearing of the appeal: *Beauregard (Succession) v. The King*, 2023 TCC 99. I am considering this motion in writing because the appellant's notices of appeal were filed in August 2022 and have been lingering for too long.

[10] Turning to the motion to strike, although the *Tax Court of Canada Rules* (*Informal Procedure*) (the Informal Procedure Rules) do not provide for the striking of pleadings, the Court has the inherent jurisdiction to do so, although it is not a practice that has been encouraged: *Baldwin v. The Queen*, 2013 TCC 363 at paras. 1–4.

[11] With respect to the appellant's appeals for the 2013 to 2016 taxation years, I need only consider whether the appeals should be quashed. The essential facts are as follows.

[12] The appellant had objections pending with the Minister of National Revenue with respect to assessments for the 2017 to 2020 taxation years. By letter dated May 16, 2022, the CRA, on behalf of the Minister, confirmed the assessments for these years. According to the confirmation letter, which is appended to the notices of appeal, the issue in those objections concerned the carryover of non-capital losses from the 2013 to 2016 taxation years.

[13] Rather than focusing on the dispute relating to the 2017 to 2020 taxation years, the appellant filed notices of appeal under the informal procedure for eight taxation years: 2013 to 2020. He did so, it seems, because the CRA referred to the 2013 to 2016 taxation years in the narrative of the confirmation letter dated May 16, 2022. A careful reading of the confirmation letter, however, makes clear that only assessments with respect the 2017 to 2020 taxation years were confirmed.

[14] As of May 16, 2022, there were no notices of objection pending before the Minister with respect to the assessments or reassessments pertaining to the

appellant's 2013 to 2016 taxation years. The reason why there were no objections pending before the Minister with respect to these taxation years is multifaceted.

[15] I begin with the appellant's 2013 and 2014 taxation years. To simplify matters, I have set out the key details in table format below and have relied on the evidence in the affidavit of Vy Nguyen sworn on November 18, 2024, which has not been challenged by the appellant.

Description	2013 Taxation Year	2014 Taxation Year
Notice of Assessment	June 27, 2014	June 26, 2015
Notice of Objection	September 19, 2014	August 28, 2015
Notice of Reassessment	August 18, 2016	August 18, 2016
Appeal to the Tax Court of Canada (First Appeal)	November 14, 2016 / 2016-5054(IT)G	November 14, 2016 / 2016-5054(IT)G
Notice of Reassessment	May 18, 2017	
Notice of Objection	July 31, 2017	
Notice of Reassessment	December 8, 2017[1]	
Extension of time to Object Granted	September 13, 2018	
First Appeal Quashed	December 13, 2018 (Judgment of Favreau J.)	December 13, 2018 (Judgment of Favreau J.)
Notice of Confirmation re Dec. 8, 2017 Reassessment	April 17, 2019	
Appeal to the Tax Court of Canada (Second Appeal)	July 15, 2019 / 2019-2680(IT)I	
Notice of Discontinuance under s. 16.2(2) of the TCC Act	January 9, 2020	

[1] According to the affidavit of Vy Nguyen at paras. 14 and 60(a), in reassessing, the Minister allowed a non-capital loss carryover of $23,185 from the appellant's 2012 taxation year in computing the appellant's taxable income for the 2013 taxation year.

Description	2013 Taxation Year	2014 Taxation Year
Registry's letter confirming appeal is deemed dismissed	January 14, 2020	

[16] As can be gleaned from the above information, Favreau J. issued a judgment on December 13, 2018, quashing the appellant's appeals with respect to the 2013 and 2014 taxation years. The judgment was issued following a show cause hearing (see Exhibit 18 of the affidavit of Vy Nguyen). The appeal with respect to the 2013 taxation year was quashed because the reassessment under appeal was displaced by the subsequent reassessment made on December 8, 2017.

[17] I turn next to the 2014 taxation year because the circumstances are different.

[18] On April 1, 2019, the Minister reassessed the appellant for the 2014 taxation year under s. 152(4.2) to allow a non-capital loss carryover of $106,707 from the 2012 taxation year. Subsection 152(4.2) is colloquially referred to as a taxpayer relief provision that permits the Minister to reassess, on the consent of a taxpayer, after the normal reassessment period. However, no objection may be made by a taxpayer to an assessment made under s. 152(4.2): see s. 165(1.2).

[19] Notwithstanding the prohibition in s. 165(1.2), the appellant submitted another adjustment request to reallocate the non-capital loss (carried over to his 2014 taxation year) to the 2013, 2015, and 2017 taxation years. The CRA denied the adjustment request by letter dated May 14, 2019.

[20] Not content, the appellant next attempted to object to the reassessment made on April 1, 2019, with respect to the 2014 taxation year by purporting to file a notice of objection on June 26, 2019. Soon after, by letter dated July 26, 2019, the CRA advised the appellant that the notice of objection was not valid, relying on s. 165(1.2).

[21] The Minister has not reassessed the appellant's 2014 taxation year since the reassessment made under s. 152(4.2) on April 1, 2019.

[22] I note also that the affidavit of Vy Nguyen states that the appellant's non-capital loss from the 2012 taxation year of $129,892 has been carried over and allowed in computing the appellant's taxable income in the 2013 and 2014 taxation

years in the amounts of $23,185 and $106,707, respectively. This evidence shows that the appellant's non-capital loss from the 2012 taxation year has been carried over and fully applied.

[23] I next turn to the appellant's 2015 and 2016 taxation years, setting out once again the key details in table format, as follows.

Description	2015 Taxation Year	2016 Taxation Year
Notice of Assessment	June 23, 2016	June 27, 2017
Notice of Objection	September 15, 2016	September 18, 2017
Notice of Confirmation	April 17, 2019	September 12, 2018
Appeal to the Tax Court of Canada	January 9, 2020 / 2019-2681(IT)I	December 3, 2018 / 2018-4604(IT)I
Notice of Discontinuance under s. 16.2(2) of the TCC Act	January 9, 2020	January 9, 2020
Registry's letter confirming appeal is deemed dismissed	January 14, 2020	January 14, 2020

[24] The Minister has not further reassessed the appellant with respect to the 2013, 2015, and 2016 taxation years.

[25] The appellant's previous appeals from assessments or reassessments with respect to the 2013, 2015, and 2016 taxation years were discontinued on January 9, 2020.

[26] An appeal discontinued is, pursuant to s. 16.2(2) of the TCC Act, an appeal disposed of, and an appeal which is disposed of no longer exists: *Canada v. Scarola*, 2003 FCA 157 at para. 21.

[27] The appellant could not object again — or appeal to this Court — from those same assessments or reassessments. Since the appellant could not serve objections with respect to these taxation years under s. 165(1), there were no assessments or reassessments for the Minister to confirm under s. 165(3) on May 16, 2022.

[28] Section 12 of the TCC Act provides this Court with jurisdiction to hear and determine appeals under s. 169(1). Before a taxpayer can file an appeal to this Court, the taxpayer must first have filed a notice of objection to an assessment in issue: see generally *Beima v. Canada*, 2016 FCA 205 at para. 13; and see *Comme Corporation v. Canada*, 2024 FCA 41 at para. 6.

[29] In the circumstances, the appellant cannot appeal to this Court under s. 169(1) in respect of the 2013, 2015, and 2016 taxation years and, as such, the appeals in Court Files 2022-3190(IT)I, 2022-3192(IT)I, and 2022-3193(IT)I must be quashed.

[30] The CRA, on behalf of the Minister, confirmed only assessments or reassessments for the appellant's 2017 to 2020 taxation years and this is apparent from the CRA's letter dated May 16, 2022. If the appellant had taken time to review the letter, this would have been apparent, especially to a practicing solicitor.

[31] Insofar as the appellant's written submissions address the appeals for the 2013 to 2016 taxation years, it seems the appellant is of the view that he must appeal these taxation years to preserve the availability of a carryover of losses. The appellant states at page 4:

> …if by quashing the Appellant's Appeals for the 2013 – 2016 taxation years, inclusive, the Appellant's rights of Loss Carries would thereby be curtailed or expunged. The Appellant asserts that such result should not be imposed, and the Appellant's rights of Loss Carries should be preserved.

[32] But the appellant is mistaken.

[33] It is well established that if a taxpayer incurs a business loss in a taxation year and has no other income and, as such, the Minister assesses no tax, the availability of a loss carryover under s. 111 from that earlier taxation year can be challenged by the Minister in a subsequent taxation year in which the carryover is claimed. This is known as the "New St. James principle", established in *New St. James Ltd. v. MNR*, [1966] CTC 305 (Ex. Ct.). For example, if a taxpayer is seeking to apply a carryover of an unused non-capital loss from the 2016 taxation year in computing taxable income in the 2017 taxation year, then the availability of the non-capital loss carryover from the 2016 taxation year would be decided in the 2017 taxation year, assuming there is a right of appeal and assuming the taxpayer does not request a loss

determination. The taxpayer does not need to appeal the 2016 taxation year to "preserve" the issue.

[34] I note also that the appellant's notices of appeal for the 2013, 2015, and 2016 taxation years refer extensively to interest and penalties. The appellant also attached to his notices of appeal a decision letter from the CRA dated July 4, 2022, with respect to a request for interest relief. And it is apparent that some relief was granted by the CRA. In his notices of appeal, however, the appellant states that he is unaware of how much interest is owed. If that is so, the appellant's recourse is to request a statement of account from the CRA. This Court has no jurisdiction to grant interest relief.

[35] In his notices of appeal for the 2013, 2015, and 2016 taxation years, the appellant also asks for the remission of any taxes, interest, and penalties. He refers to the hardship effects of the COVID-19 pandemic. Again, this Court has no jurisdiction to grant equitable relief or the remission of tax, interest or penalties.

[36] I next return to the appellant's notice of appeal with respect to the 2014 taxation year.

[37] As stated, the appellant could not object to the Minister's reassessment made under s. 152(4.2) for the 2014 taxation year because of the prohibition in s. 165(1.2).

[38] A precondition to an appeal under s. 169(1) is that a taxpayer must have served a notice of objection under s. 165(1). Since the appellant could not make a valid objection, no valid appeal could be commenced: see *Groulx v. The Queen*, 2008 TCC 445 at para. 11.

[39] In the circumstances, the appellant's appeal with respect to the 2014 taxation year in Court File 2022-3191(IT)I must also be quashed.

[40] For completeness, I note that the Crown also argues that the doctrine of abuse of process applies to strike the appellant's appeals for the 2013 to 2016 taxation years. I do not need to consider this argument because the appeals for these years must be quashed.

III. Should the appeal for the 2020 Taxation Year be Quashed?

[41] The appellant's appeal with respect to the 2020 taxation year must also be quashed for the following reasons.

[42] The Minister initially assessed the appellant for the 2020 taxation year as filed, by notice of assessment sent on June 25, 2021. According to the copy of the notice of assessment at Exhibit 49 of the affidavit of Vy Nguyen, nil federal tax was assessed.

[43] An appeal must be directed against an assessment, however, an assessment which assesses no tax is not an assessment. A taxpayer has no right of appeal from a nil assessment: see *Canada v. Interior Savings Credit Union*, 2007 FCA 151 at para. 17; *Okalta Oils Limited v. MNR*, [1955] SCR 824.

[44] The appellant argues that "… if by quashing the Appellant's Appeals for the 2020 taxation year, the Appellant's right of Loss Carries would thereby be curtailed or expunged, and such result should not be imposed, and the Appellant's rights of Loss Carries should be preserved" (appellant's written representations at p. 5).

[45] The Minister's notice of initial assessment for the appellant's 2020 taxation year indicates that the appellant had a net income of $23,639 and a taxable income of $23,639. Certain federal non-refundable tax credits resulted in the appellant being assessed nil federal tax.

[46] I am satisfied that the assessment for the 2020 taxation year is a nil assessment. Because there can be no appeal from a nil assessment, the appellant's appeal with respect to the 2020 taxation year in Court File 2022-3197(IT)I must also be quashed.

[47] I do not know why the CRA stated in the letter to the appellant dated May 16, 2022, that the assessment for the 2020 taxation year was confirmed since a taxpayer cannot object to a nil assessment. It is unfortunate because the letter further advised the appellant that if he disagreed with the decision, he could appeal to this Court.

[48] Finally, I do not need to address the Crown's alternative argument that the appellant's appeal for the 2020 taxation year discloses no reasonable cause of action.

IV. The Appellant's Appeals with respect to the 2017 to 2019 Taxation Years

[49] The Crown's motion seeks an order quashing the appeals with respect to the 2017, 2018, and 2019 taxation years under ss. 53(1)(d) and 53(3)(a) of the General Procedure Rules. In the grounds for the motion, the Crown says the appeals disclose no reasonable cause of action and should be struck in their entirety, with leave to amend.

[50] It is important to be precise here. As stated previously, s. 53(1)(d) deals with striking a pleading, such as a notice of appeal. And s. 53(3)(a) provides that the Court may quash an appeal, on application by the Crown, because the Court has no jurisdiction over the subject matter of the appeal. I will read the Crown's motion as a request to strike the notices of appeal filed for the 2017, 2018, and 2019 taxation years on the basis that the pleadings disclose no reasonable grounds for appeal under s. 53(1)(d).

[51] No evidence is admissible on an application under s. 53(1)(d): see s. 53(2) of the General Procedure Rules.

[52] I note also that it is unnecessary to resort to the General Procedure Rules; this Court has the inherent jurisdiction to strike a pleading in a proceeding under the informal procedure.

[53] However, an interlocutory motion to strike a pleading in the informal procedure should be reserved for extraordinary circumstances, keeping in mind Parliament's objective in establishing a simplified and expeditious procedure for determining certain tax disputes. In most instances, the trial judge hearing an appeal under the informal procedure can address concerns about a pleading. This ensures that the informal procedure does not become a forum for preliminary motions. And it furthers the need to facilitate the just, most expeditious and least expensive determination of the matters in dispute: see *Canada v. Preston*, 2023 FCA 178 at para. 37, but in the context of the General Procedure Rules.

[54] That said, a motion to strike under the informal procedure is not unprecedented. For example, in *Macleod v. The Queen*, 2010 TCC 238, Justice V.A. Miller granted a motion to strike a notice of appeal under the informal procedure on the basis that it failed to disclose any grounds of appeal. In that case, the only issue raised in the notice of appeal concerned the conduct of the CRA.

[55] Turning to the applicable test, a pleading will only be struck if it is plain and obvious, assuming the facts pleaded to be true, that the pleading discloses no reasonable cause of action or has no reasonable prospect of success: *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42 at para. 17; *Hunt v. Carey Canada Inc.*, [1990] 2 SCR 959 at p. 980; and *Main Rehabilitation Co. v. Canada*, 2004 FCA 403 at para 3.

[56] In the context of an appeal under the ITA, the test is better stated as whether it is plain and obvious, assuming the facts pleaded are true, that the impugned part of the pleading discloses no reasonable grounds for appeal or for opposing the appeal.

[57] A court can strike out a pleading where it is so deficient in material facts that it does not raise a ground of appeal, or where the facts set out are irrelevant, or where the Crown cannot know how to answer: see *Gauthier (Gisborn) v. The Queen*, 2006 TCC 290 at para. 7.

[58] The onus to establish that a pleading should be struck rests with the person seeking to strike it out. The burden has been described as a heavy one: *Preston* at para. 16.

[59] Because the appeals for the 2017, 2018, and 2019 taxation years were commenced under the informal procedure, it is important to also consider the requirements for a notice of appeal under s. 18 of the TCC Act. Subsection 18.15(1) of the TCC Act provides that an appeal referred to in s. 18 shall be instituted by filing an originating document with the Registry of the Court in the manner set out in the rules of the Court. Subsection 18.15(1) further states that the document shall set out, in general terms, the reasons for the appeal and the relevant facts, but no special form is required unless the Act under which the appeal arises provides otherwise.

[60] Section 4 of the Informal Procedure Rules provides that an appeal shall be instituted by filing a notice of appeal, which may be in the form set out in Schedule 4.

[61] The form under Schedule 4 contemplates that an appellant will state the reasons for appeal and offers the following guidance: “Here state why you say the assessments(s)… are wrong”. This guidance puts the focus on the correctness of the assessment or reassessment, i.e., whether the Minister has assessed the correct

amount of tax, or whether the assessment or reassessment is valid. The form also contemplates that an appellant will set out a statement of relevant facts in support of the appeal.

[62] Many notices of appeal filed under the informal procedure contain mere boilerplate. For example, an appellant might state, "I disagree with the assessment". And in most instances the Crown can proceed with the filing of a reply under the informal procedure because the CRA has knowledge of the dispute over the correctness of an assessment through the audit or objection process.

[63] In other instances, an appellant might refer extensively to matters outside this Court's jurisdiction, such as a request for interest relief. As stated, such matters can usually be dealt with by the trial judge during the hearing of the appeal on its merits.

[64] Having noted the applicable test for a motion to strike, I now turn to the appellant's notices of appeal for the 2017, 2018, and 2019 taxation years.

[65] The notices of appeal are essentially identical except for the reference to the taxation year under appeal in paragraph (c). As for the substance of the notices of appeal, they are scattershot, and this will become evident further below.

[66] The notices of appeal also append the CRA's confirmation letter dated May 16, 2022. I have considered the confirmation letter for the purpose of deciding the motion: see *Web Offset Publications Limited et al. v. Vickery et al.*, 1999 CanLII 4462 (ONCA).

[67] The CRA's confirmation letter dated May 16, 2022, states that the basis of the appellant's objection was that non-capital losses incurred in the 2013 to 2016 taxation years should be carried forward to the appellant's 2017, 2018, and 2019 taxation years. The CRA referred to requests for the appellant to provide supporting information and documentation, but no documentation was submitted. Unable to substantiate the non-capital losses, the CRA confirmed the assessments or reassessments.

[68] Simplified, paragraphs (d)1, (d)2, (d)3, and (d)4 of the notices of appeal allege that the appellant has not had a "reasonable opportunity" to deal with the data, information, content and results of the CRA's review, and that the appellant has been unable to fully respond effectively to the various CRA processes. However, in an

appeal from an income tax assessment, the role of this Court is to determine the validity and correctness of the assessment based on the relevant provisions of the ITA and the facts giving rise to the taxpayer's statutory liability: *Ereiser v. Canada*, 2013 FCA 20 at para. 31. None of these paragraphs are relevant to an issue properly before this Court.

[69] Paragraphs (d)5 to (d)7 of the notices of appeal concern allegations that the appellant is unaware of the details relating to interest that has been charged. None of these paragraphs raise an issue about the validity or correctness of the assessments for the 2017, 2018, and 2019 taxation years. The appellant has not alleged that he did not receive copies of the notices of assessment or notices of reassessment. Again, if the appellant is unsure about amounts owing, his recourse is to request a statement of account from the CRA.

[70] Paragraph (d)8 of the notices of appeal refer to the COVID-19 Pandemic and the difficulties encountered by the appellant. The effects of the COVID-19 Pandemic began in Canada in 2020. This allegation does not relate to the appellant's 2017, 2018, and 2019 taxation years.

[71] Paragraphs (d)9, (d)10 and (d)11 of the notices of appeal refer to financial losses that the appellant has suffered. In paragraph (d)10, in particular, the appellant alleges that the CRA has failed to give the appellant credit for certain tax loss carryovers, and credit for "certain business and operating losses, expenses and costs incurred by the Appellant… and, the fact that the Appellant has certain allowable business investment losses ("ABIL)") under the Act". Paragraph (d)11 refers to losses in the fall of 2016 relating to the appellant's former law firm.

[72] The Crown filed replies in response to the appellant's notices of appeal for the 2017, 2018, and 2019 taxation years and denied paragraph (d)10.

[73] Paragraph (d)12 of the notices of appeal contains an allegation regarding the appellant's belief that the assessments for the 2013 to 2016 taxation year are statute-barred. But this is not relevant to the appellant's 2017, 2018, and 2019 taxation years.

[74] Paragraphs (d)13 to (d)16 of the notices of appeal contain allegations that the appellant has not been dealt with fairly and equitably, and in accordance with the "Taxpayer Bill of Rights". The appellant says he has not had an opportunity to be heard on the merits and it would be unfair, inequitable and against the rules of natural

justice if he were not given a reasonable opportunity. These paragraphs read as if this matter were an administrative law matter. It is not. The Taxpayer Bill of Rights, while an aspirational document of the CRA, has no force of law (*Johnson v. The Queen*, 2022 TCC 31 at para. 25) and is not applicable in determining the correctness of an income tax assessment. Moreover, the conduct of the CRA is not relevant to the determination of the validity or correctness of an assessment: *Ereiser* at para. 31.

[75] Paragraphs (e)1 to (e)7 of the notices of appeal refer to the appellant's ongoing difficulties, the significant number of taxation years involved, the revolving number of CRA officials involved, the conduct of the CRA officials, CRA delays and the unfair accrual of interest and penalties. Paragraph (e)8 of the notices of appeal refers to and appends the CRA's decision letter with respect to a request for interest relief. None of these paragraphs are relevant to the determination of the validity and correctness of the assessments.

[76] Paragraph (f) of the notices of appeal contain the appellant's requests for relief. In paragraph (f)1, the appellant states that it would be just and equitable for this Court to allow the appeals and vacate the assessments. Paragraph (f)2 contains a single running sentence comprising 16 lines that attempt to sum up the matters pleaded elsewhere, and concludes with a request that this Court "order the full and absolute remission of any taxes and interest (and any penalties) presently claimed…". But this Court cannot grant the remission of taxes. In an appeal under the ITA, this Court can dispose of an appeal by dismissing it or allowing it and vacating the assessment, varying the assessment, or referring the assessment back to the Minister for reconsideration and reassessment: see s. 171 of the ITA.

[77] In the circumstances, what am I to do with the appellant's notices of appeal? I remind myself that the informal procedure should not become a forum for interlocutory motions. I also remind myself that in *Macleod*, Justice V.A. Miller granted a motion to strike a notice of appeal brought under the informal procedure on the basis that it failed to disclose any grounds of appeal. But in *Macleod*, the entire notice of appeal was struck. I am also mindful that the Crown filed replies to the notices of appeal for the 2017, 2018, and 2019 taxation years.

[78] The Crown acknowledges that the deficiencies in paragraphs (d)10 and (f)1, which contain references to business losses, non-capital losses in previous taxation years, and an ABIL, could be cured.

[79] However, at present paragraphs (d)9, (d)10 and (d)11 do not contain any details (i.e., material facts) or particulars about the appellant incurring additional business expenses in the 2017, 2018, and 2019 taxation years, or details about any non-capital losses available for carryover in prior years. And no material facts are pleaded with respect to an ABIL; as presently pleaded it is a mystery.

[80] The appellant's written submissions filed in opposition of the Crown's motion refer to non-capital losses of prior years of $248,411 and an ABIL of $282,000. The appellant also attached a spreadsheet to his written submissions that purports to set out a minimum of $208,793 of non-capital losses, although the spreadsheet itself contains no details that would make it intelligible for a reader. The appellant also refers to his "account balances" on the notices of assessment for the 2017, 2018, and 2019 taxation years, once again failing to recognize that this Court's role is to determine whether the assessments are valid and correct.

[81] The appellant acknowledges that he is a lawyer, but not a tax specialist or a litigation lawyer. Unfamiliar with tax litigation, the appellant has drafted a pleading that improperly focuses on collection issues, interest relief and his grievances against the CRA.

[82] I have also considered whether it would be preferrable to order the appellant to provide particulars with respect to any claims for additional business expenses in the 2017, 2018, and 2019 taxation years, an ABIL, or the availability of any non-capital losses to be carried over or back from other taxation years. However, too many paragraphs in the notices of appeal refer to matters that are clearly irrelevant, not within this Court's jurisdiction, or concern a request for relief that this Court cannot grant, and I fear that they create too much unnecessary noise and a distraction for the Crown and the trial judge who would eventually hear the appeal.

[83] I have another concern: the notices of appeal, at present, do not disclose whether the aggregate of all amounts in issue in each year is equal to or less than $25,000. And since the appellant did not use Schedule 4 to the Informal Procedure Rules as the form for the notice of appeal, the notices of appeal do not contain a clear statement that the appellant has elected to have the informal procedure provided by ss. 18 to 18.28 of the TCC Act apply to his appeals. The appellant simply used the words "Notice of Appeal – Informal Procedure" in the style of cause on the first page of each notice of appeal.

[84] The Crown's replies for the 2017, 2018, and 2019 taxation years state that the appellant reported net professional income of $63,335, $13,569 and $33,417, respectively and that the appellant did not claim any non-capital loss carryovers in computing his taxable income in those years. Having regard to the appellant's other income, it seems unlikely that the amount in issue in each year exceeds $25,000. Nonetheless, the appellant should make clear that he is electing to have the informal procedure apply: see s. 18(1) of the TCC Act.

[85] In the circumstances, I have concluded that certain paragraphs in the appellant's notices of appeal for the 2017, 2018, and 2019 taxation years must be struck because I am satisfied that it is plain and obvious, assuming the facts pleaded are true, that the paragraphs disclose no reasonable grounds for appeal. As stated, the circumstances here are not conducive to the Court ignoring the problem until the hearing of the appeals. If the appellant had pleaded the necessary material facts to support his references to additional business expenses, an ABIL or the availability of non-capital losses to be carried over from prior years, I would have been more inclined to leave these other matters for the trial judge hearing the appeals.

[86] Based on the forgoing, I will exercise my discretion and strike the following from the notices of appeal for the 2017, 2018, and 2019 taxation years in Court Files 2022-3194(IT)I, 2022-3195(IT)I, and 2022-3196(IT)I: paragraphs (d)1, (d)2, (d)3, (d)4, (d)5, (d)6, (d)7, (d)8, (d)12, (d)13, (d)14, (d)15, d(16), (e)1, (e)2, (e)3, (e)4, (e)5, (e)6, (e)7, (e)8, (f)1 and (f)2.

[87] I will not strike out paragraphs (d)9, (d)10 and (d)11 of the notices of appeal for the 2017, 2018, and 2019 taxation years since the problem can be cured with amendments. Accordingly, I will instead grant leave to the appellant to amend the notices of appeal to plead the necessary material facts and relief sought with respect to the following:

a. The nature and amount of the business expenses that the appellant alleges he is entitled to deduct beyond those already allowed by the Minister;

b. The amount of the business losses that the appellant alleges he incurred, and the taxation years in which those losses were incurred;

c. The amount of any ABIL that the appellant alleges he is entitled to claim from the disposition of any property, and the relevant taxation year; and

d. Any other specific errors that the appellant alleges were made with respect to the correctness of the assessments under appeal for the 2017, 2018 and 2019 taxation years.

[88] I emphasize that the appellant is to plead material facts to support these claims. The appellant will have 45 days from the date of my Order to serve and file amended notices of appeal. Thereafter, the Crown will have 60 days to file and serve amended replies.

[89] I also have a word of caution for the appellant. If the appellant does not amend the notices of appeal for the 2017, 2018, and 2019 taxation years, the trial judge hearing the appeal might not permit the appellant to raise the issues pleaded in paragraphs (d)9, (d)10, and (d)11 on the basis that the notices of appeal do not adequately define the issues.

[90] The appellant should also make clear that he is electing to have the informal procedure apply, assuming that is his intention, in accordance with s. 18(1) of the TCC Act.

V. Costs

[91] The Crown seeks costs of this motion.

[92] Under s. 10(2) of the Informal Procedure Rules, the Court may award costs to the Crown in an amount not exceeding the amounts listed in s. 11, only if the actions of the appellant have unduly delayed the prompt and effective resolution of the appeal.

[93] I am mindful that the Crown may have incurred significant disbursements for this motion. The Crown's motion record exceeds 600 pages. It is also self evident that the Crown has been put to significant time and expense. Nonetheless, I will leave the matter of costs, in respect of the appeals for the 2017, 2018, and 2019 taxation years, for the determination of the trial judge following the hearing of appeals.

[94] There will be no award costs in respect of the appeals that are being quashed, in particular for the 2013, 2014, 2015, 2016, and 2020 taxation years.

Signed this 30th day of April 2025.

"Perry Derksen"

Derksen J.

CITATION:	2025 TCC 64
COURT FILE NOS.:	2022-3190(IT)I 2022-3192(IT)I 2022-3193(IT)I 2022-3194(IT)I 2022-3195(IT)I 2022-3196(IT)I 2022-3197(IT)I
STYLE OF CAUSE:	CHRISTOPHER FULTZ v. HIS MAJESTY THE KING
PLACE OF HEARING:	Ottawa, Ontario
DATE OF HEARING:	Motion of the Respondent in writing filed on November 29, 2024s
REASONS FOR JUDGMENT AND REASONS FOR ORDER BY:	The Honourable Justice Perry Derksen
DATE OF JUDGMENT/ORDER:	April 30, 2025

APPEARANCES:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Erin Wolfe

COUNSEL OF RECORD:

For the Appellant:

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Firm:	n/a

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