Docket: 2014-3401(IT)G

BETWEEN:

JAMES T. GRENON,

Appellant,

and

HIS MAJESTY THE KING,

Respondent;

AND BETWEEN:

Docket: 2014-4440(IT)G

THE RRSP TRUST OF JAMES T. GRENON (552-53721)
BY ITS TRUSTEE CIBC TRUST CORPORATION,

Appellant,

and

HIS MAJESTY THE KING,

Respondent;

AND BETWEEN:

Docket: 2017-486(IT)G

MAGREN HOLDINGS LTD.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent;

AND BETWEEN:

Docket: 2017-605(IT)G

2176 INVESTMENTS LTD. (AS SUCCESSOR TO GRENCORP MANAGEMENT INC., SUCCESSOR TO 994047 ALBERTA LTD.),

Appellant,

and

HIS MAJESTY THE KING,

Respondent;

AND BETWEEN:

Docket: 2017-606(IT)G

MAGREN HOLDINGS LTD.
(SUCCESSOR BY AMALGAMATION TO 1052785 ALBERTA LTD.),

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Reconsideration of the Order for Costs in light of the
Federal Court of Appeal decision in
James T. Grenon and The RRSP of
James T. Grenon (552-53721) by its Trustee
CIBC Trust Corporation et al. (*Grenon v. Canada*, 2025 FCA 129)

Before: The Honourable Justice Guy R. Smith

Counsel of Record:

Counsel for the Appellants: Cy M. Fien
Brandon Barnes Trickett
Ari M. Hanson
Aron W. Grusko

Counsel for the Appellant CIBC Trust Corporation:	John J. Tobin Linda Plumpton James Gotowiec
Counsel for the Respondent:	Ifeanyi Nwachukwu Tanis Halpape Christopher Kitchen Jeremy Tiger

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ORDER

WHEREAS an Order for Costs was issued on December 1, 2021 (2021 TCC 89).

AND WHEREAS the Federal Court of Appeal instructed the presiding judge to reconsider the award of costs taking into consideration the Judgment and Reasons for Judgment of the Federal Court of Appeal as reported at 2025 FCA 129.

AND IN ACCORDANCE with the attached Supplemental Reasons for Order;

THE COURT ORDERS AND CONFIRMS that the Respondent is awarded lump sum costs fixed in the amount of $1,197,942, inclusive of disbursements, payable by the Appellants on a joint and several basis.

Signed at Ottawa, Ontario, this 29th day of October 2025.

"Guy R. Smith"

Smith J.

Citation: 2025 TCC 161
Date: 20251029
Docket: 2014-3401(IT)G

BETWEEN:

JAMES T. GRENON,

Appellant,

and

HIS MAJESTY THE KING,

Respondent;

AND BETWEEN:

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THE RRSP TRUST OF JAMES T. GRENON (552-53721)
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MAGREN HOLDINGS LTD.
(SUCCESSOR BY AMALGAMATION TO 1052785 ALBERTA LTD.),

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

SUPPLEMENTAL REASONS FOR ORDER

Smith J.

I. Introduction

[1] This matter relates to an Order awarding lump sum costs to the Respondent fixed in the amount of $1,197,942, inclusive of disbursements payable by the Appellants on a joint and several basis (2021 TCC 89) (the “Order for Costs”).

[2] The Order for Costs was issued following a judgment rendered in respect of the appeals of James T. Grenon and the RRSP of James T. Grenon, by its Trustee CIBC Trust Corporation (2021 TCC 30) (the “Grenon Appeal”) and a

further judgment rendered in respect of the appeals of Magren Holdings Ltd et al. (2021 TCC 42) (the "Magren Appeal"). Although those appeals were heard on common evidence, separate judgments were issued by the Court.

[3] The Order for Costs as well as some of the conclusions reached in those judgments were appealed to the Federal Court of Appeal ("FCA") and separate decisions were rendered in respect of the Grenon Appeal (*Grenon v. Canada*, 2025 FCA 129) (the "Grenon FCA Decision") and the Magren Appeal (*Magren Holdings Ltd. v. Canada*, 2024 FCA 202) (the "Magren FCA Decision"). In the Grenon FCA Decision, the Court states the following:

> [346] (…) Given my conclusion with respect to Grenon RRSP's appeal, I would refer the matter of costs back to the same judge of the Tax Court for the determination of the costs award, taking these reasons into account.

[4] Since the award of costs related to both the Grenon Appeal and the Magren Appeal, I will now summarily review the facts and conclusions reached in those decisions as well as the Grenon FCA Appeal and the Magren FCA Appeal.

II. The Grenon Appeal and The Grenon FCA Decision

[5] At the heart of the Grenon Appeal, were the investments made by Mr. Grenon's RRSP (the "RRSP Trust") in various mutual fund trusts that he took the initiative of establishing and largely controlled. For reasons set out in the Grenon Appeal, I concluded that those mutual fund trusts were non-qualified investments ("NQI's"), a conclusion that was ultimately upheld in the Grenon FCA Decision.

[6] On the basis that the mutual fund trusts were NQI's, the Minister of National Revenue reassessed Mr. Grenon and the RRSP Trust to include income of $186,489,148 generated by the mutual fund trusts and their underlying businesses and paid to the RRSP Trust during the 2004 to 2009 taxation years (the "Part 1 Assessment"). The Respondent conceded that it could only be successful against one appellant, but not both.

[7] I dismissed several arguments made by the Respondent (subsection 56(2), sham, window dressing and excess contributions) but ultimately upheld the Part 1

Assessment on the basis of the general anti-avoidance rule ("GAAR"). Having done so, I dismissed the appeal as against Mr. Grenon because, as a tax consequence, it would not be reasonable to tax both him as the annuitant and the RRSP Trust. The Part 1 Assessment was thus upheld as against the RRSP Trust, but subject to an adjustment of $136,654,427 for the 2005 taxation year, accepting the Appellants' argument that this amount represented the value of units acquired from one of the mutual fund trusts in a swap-like transaction and was not an actual distribution of income. This finding was not appealed by the Respondent.

[8] The FCA upheld the Part 1 Assessment relying on GAAR but rejected the notion of an adjustment. It found that the amount received by the RRSP Trust during the 2005 taxation year, represented income arising from the Foremost Industries Income Fund ("FMO") reorganization that was paid to the mutual fund trust and then to the RRSP Trust (Magren FCA Appeal, paras. 61-64 and 79). The FCA thus upheld the Part 1 Assessment for the entire amount as against the RRSP Trust relying on GAAR.

[9] The Grenon Appeal also involved an assessment of the RRSP Trust of a one-percent tax calculated monthly pursuant to Part XI.1 of the *Income Tax Act* (the "Act") (the "Part XI.1 Assessment"). As explained by the FCA, Part XI.1 of the Act "imposes a tax on the RRSP for that month equal to one percent of the NQI's acquisition date value: s. 207.1(1)(a). However, Part XI.1 tax does not apply where the acquisition date value was included in the annuitant's income by virtue of subsection 146(10)" (para. 21). It is not disputed that the acquisition value of the units was not included in Mr. Grenon's personal income and that the Minister failed to assess him pursuant to subsection 146(10). I interpreted this to mean that the exception did not apply and concluded that the Part XI.1 Assessment was valid. As a result, I dismissed the appeal by the RRSP Trust in that regard.

[10] The FCA did not agree indicating that "the acquisition date value of the NQI should have been treated as Mr. Grenon's income in the relevant taxation years" and his "failure to report those amounts as income, and the Minister's failure to assess Mr. Grenon on the basis it was his income, are of no consequence" (para. 110). It later explained that "Part XI.1 tax applies where subsection 146(10) does not" (para. 296). Without going through the entire analysis (paras. 291-311), it will suffice to say that the FCA indicated that Mr. Grenon and the RRSP Trust were "different taxpayers" and the Part XI.1 Assessment was similar to a "derivative assessment" that could be challenged (paras. 307-308). It found that the

"Grenon RRSP neither participated in, nor had a right to participate in, how Mr. Grenon reported his income nor how the Minister assessed Mr. Grenon's returns" (para. 309). As a result, the FCA concluded that the RRSP Trust was entitled to challenge the Part XI.1 Assessment. The FCA thus allowed the RRSP Trust appeal.

III. The Magren Appeal and The Magren FCA Appeal

[11] The Magren Appeal dealt with a complex reorganization involving a publicly traded mutual fund described above as FMO. This reorganization resulted in the creation of capital dividend accounts in the hands of the corporate appellants and payment of an aggregate tax-free capital dividend of $110 million to Mr. Grenon. What follows is intended as a short summary.

[12] The RRSP Trust owned 58% of the units of FMO and the remaining units were widely held. Mr. Grenon arranged a transfer of the FMO units held in the RRSP Trust to one of the mutual fund trusts described above and then initiated the reorganization. The RRSP Trust and the public unit holders received "new" units but the existing FMO units were acquired by the mutual fund trust in question and then transferred to the corporate appellants. Following a series of steps, an accrued gain was crystallized and added to the corporate appellants' capital dividend accounts with offsetting capital losses. As a result, the three corporate appellants were able to pay capital dividends aggregating more than $110 million to Mr. Grenon, with elections that they be treated as tax-free capital dividends.

[13] I accepted the Respondent's position and dismissed the appeals on the basis that the transactions were ineffective because the RRSP Trust continued to hold a beneficial interest in the FMO units or, alternatively, because there was a sham. In the further alternative, I concluded that the series of steps that led to the tax-free payment of the capital dividends were subject to GAAR. The appeals were accordingly dismissed.

[14] The FCA rejected my findings that the transfer of the FMO units to the corporate appellants was ineffective or that there was a sham. However, it ultimately upheld the application of GAAR and dismissed the appeals on that basis.

IV. The Order for Costs

[15] In the Reasons for Order, I conducted a thorough review of the various factors set out in subsection 147(3) of the *Tax Court of Canada Rules (General Procedure)* and applicable caselaw. I do not propose to do so again.

[16] While the FCA indeed allowed the appeal of the Part XI.1 Assessment, it also increased the Part 1 Assessment by $136,654,427. All things considered, I am not prepared to disturb the conclusions reached in the previous order.

V. Conclusion

[17] Having reconsidered the Order for Costs in light of the Grenon FCA Decision and the Magren FCA Decision, I decline to exercise my discretion to vary it in any way and as such the lump sum award of costs as set out above, is hereby confirmed.

Signed at Ottawa, Ontario, this 29th day of October 2025.

"Guy R. Smith"

Smith J.

CITATION:	2025 TCC 161
COURT FILE NOS.:	2014-3401(IT)G, 2014-4440(IT)G, 2017-486(IT)G, 2017-605(IT)G, 2017-606(IT)G
STYLES OF CAUSE:	JAMES T. GRENON AND HIS MAJESTY THE KING THE RRSP TRUST OF JAMES T. GRENON (552-53721) BY ITS TRUSTEE CIBC TRUST CORPORATION AND HIS MAJESTY THE KING MAGREN HOLDINGS LTD. AND HIS MAJESTY THE KING 2176 INVESTMENTS LTD. (AS SUCCESSOR TO GRENCORP MANAGEMENT INC., SUCCESSOR TO 994047 ALBERTA LTD.) AND HIS MAJESTY THE KING MAGREN HOLDINGS LTD. (SUCCESSOR BY AMALGAMATION TO 1052785 ALBERTA LTD.) AND HIS MAJESTY THE KING
SUPPLEMENTAL REASONS FOR ORDER BY:	The Honourable Justice Guy R. Smith
DATE OF ORDER:	October 29, 2025

PARTICIPANTS:

Counsel for the Appellants:	Cy M. Fien Brandon Barnes Trickett Ari M. Hanson Aron W. Grusko
Counsel for the Appellant CIBC Trust Corporation:	John J. Tobin Linda Plumpton James Gotowiec
Counsel for the Respondent:	Ifeanyi Nwachukwu Tanis Halpape Christopher Kitchen Jeremy Tiger

COUNSEL OF RECORD:

For the Appellants:

Name:	Cy M. Fien Brandon Barnes Trickett Ari M. Hanson Aron W. Grusko
Firm:	Fillmore Riley LLP Winnipeg, Manitoba

Counsel for the Appellant
CIBC Trust Corporation:

Name:	John J. Tobin Linda Plumpton James Gotowiec
Firm:	Torys LLP Toronto, Ontario

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