

Docket: 2013-3318(IT)I

BETWEEN:

ELAINE LAPOINTE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on July 7, 2014, at Montréal, Quebec.

Before: The Honourable Justice Réal Favreau

Appearances:

For the appellant:	The appellant herself
Agent for the respondent:	Laurianne Dusablon-Rajotte

JUDGMENT

The appeal from the reassessment made by the Minister of National Revenue under the *Income Tax Act*, on November 26, 2012, for the 2011 taxation year, is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 5th day of December 2014.

“Réal Favreau”

Favreau J.

Translation certified true
On this 20th day of January 2015
Martha Sanipe, Translator

Citation: 2014 TCC 356

Date: 20141205

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BETWEEN:

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REASONS FOR JUDGMENT

Favreau J.

[1] This is an appeal under the informal procedure of a reassessment made by the Minister of National Revenue (the Minister) under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), as amended (the Act) on November 26, 2012, concerning the 2011 taxation year.

[2] The issue is whether the Minister was justified in disallowing the amount of \$6,909 claimed by the appellant as a charitable donations credit, in the calculation of non-refundable tax credits for the 2011 taxation year.

[3] In making and confirming the reassessment, the Minister made the following assumptions of fact:

[TRANSLATION]

- (a) in her income tax return for the 2011 taxation year, the appellant claimed a tax credit for charitable donations to Action Canadienne Internationale de Bienfaisance (the organization) for the amount of \$6,909;
- (b) the appellant stated that most of this amount had been paid in cash, and failed to prove that the amount had been paid;
- (c) the few receipts submitted by the appellant to support certain amounts paid to the organization did not contain all of the required information. The missing

information included the serial number of the receipt and the place or locality where the receipt was issued.

[4] In her Notice of Appeal and during her testimony, the appellant explained why she was unable to produce an official receipt entitling her to claim the amounts paid to or incurred on behalf of Action Canadienne Internationale de Bienfaisance (ACIB), a charitable organization duly registered with the Canada Revenue Agency (ACIB #885502 9843).

[5] Following the 2010 earthquake in Haiti, the appellant's spouse, Paul D'Auteuil, a daycare teacher, went to Haiti as a volunteer to help build a camp for disaster victims about 60 kilometres north of Port-au-Prince. Mr. D'Auteuil's services in Haiti were apparently rendered under the auspices of ACIB, since an official receipt for \$10,882.86 was issued in his name for the 2010 taxation year.

[6] ACIB's charitable activities focus solely on the mission of the École Mixte de la Foi de Montrouis in Haiti. Some 300 children attend this school. Yvette Levasseur is the founder and president of ACIB. The organization's offices are located at 164 Fonteneau Street in Repentigny.

[7] The appellant and her spouse attended Église Le Contact at 380 Larochelle Street in Repentigny and apparently met Ms. Levasseur through this organization. Église Le Contact has provided financial support to the École Mixte de la Foi for several years.

[8] The relationship between Ms. Levasseur and the appellant and her spouse deteriorated in early 2011 because of numerous irregularities observed, that is, apparent theft, fraud, breach of trust and misappropriation of funds. For example, in February 2011, the appellant and her husband gave Ms. Levasseur one cheque for US\$700 to buy school uniforms for the children, and another for US\$500 for school fees for 20 children. The appellant and her spouse apparently noticed that Ms. Levasseur had used this money for other things without justification, and no receipts were produced for the purchases. As a result, the appellant and her spouse decided to remit the money directly to the school principal, Brutus Dieufort. Ms. Levasseur was aware of the actions of the appellant and her spouse, and assured them that tax receipts would be issued.

[9] In May 2011, the appellant and her spouse travelled to Haiti as executive members of ACIB with Ms. Levasseur. All of Ms. Levasseur's travel expenses were covered by ACIB. During this trip, the principal of the École Mixte de la Foi

gave the appellant and her spouse invoices for 900 new books purchased on his behalf or on behalf of the École Mixte de la Foi, but paid for by the appellant and her spouse.

[10] In addition to the donations for the purchase of textbooks, enrolment of students at the school and school uniforms, the appellant and her spouse paid for food and supplies for a year-end party for children and staff at the school, and for medicine. A portion of these donations were hand delivered to the principal of the École Mixte de la Foi, who issued receipts with the school's official stamp.

[11] Since the appellant and her spouse had lost trust in the ACIB president, they reported the irregularities they had observed to the organization's board of directors at a meeting in June 2011. Nothing was done, and Ms. Levasseur remained the organization's president. However, in August 2011, Ms. Levasseur confirmed by email that she and the organization's board of directors had agreed to issue Mr. D'Auteuil the tax receipts for 2011.

[12] Despite Ms. Levasseur's promise to issue the tax receipts, she ultimately offered a receipt for only \$2,326.25, far below the amount spent by the appellant and her husband on behalf of ACIB. In the end, because the appellant and her spouse did not accept the offer, no receipt was issued to the appellant and her spouse for donations to the organization for 2011.

Applicable legislation

[13] Subsection 118.1(2) of the Act establishes the following in order for the eligible amount of a gift that is not a Crown, cultural or ecological gift to be included in total charitable donations:

118.1(2) Proof of gift

an eligible amount of a gift shall not be included in the total charitable gifts, total Crown gifts, total cultural gifts or total ecological gifts of an individual unless the making of the gift is evidenced by filing with the Minister:

(a) a receipt for the gift that contains prescribed information;

...

[14] The information required under subsection 118.1(2) of the Act is set out in sections 3500 and 3501 of the *Income Tax Regulations* (the Regulations)

3500. In this Part,

“official receipt” means a receipt for the purposes of subsection 110.1(2) or (3) or 118.1(2), (6) or (7) of the Act, containing information as required by section 3501 or 3502. (*reçu officiel*)

3501. (1) Every official receipt issued by a registered organization shall contain a statement that it is an official receipt for income tax purposes and shall show clearly in such a manner that it cannot readily be altered,

(a) the name and address in Canada of the organization as recorded with the Minister;

(b) the registration number assigned by the Minister to the organization;

(c) the serial number of the receipt;

(d) the place or locality where the receipt was issued;

(e) where the gift is a cash gift, the date on which or the year during which the gift was received;

(e.1) where the gift is of property other than cash:

(i) the date on which the gift was received,

(ii) a brief description of the property, and

(iii) the name and address of the appraiser of the property if an appraisal is done;

(f) the date on which the receipt was issued;

(g) the name and address of the donor including, in the case of an individual, the individual's first name and initial;

(h) the amount that is

(i) the amount of a cash gift, or

(ii) if the gift is of property other than cash, the amount that is the fair market value of the property at the time that the gift is made;

(h.1) a description of the advantage, if any, in respect of the gift and the amount of that advantage;

(h.2) the eligible amount of the gift;

(i) the signature, as provided in subsection (2) or (3), of a responsible individual who has been authorized by the organization to acknowledge gifts; and

(j) the name and Internet website of the Canada Revenue Agency.

Analysis

[15] In this case, it is clear that the receipts and other documents produced by the appellant do not meet the explicit requirements of the *Regulations*. The failures to comply are significant and multiple.

[16] For example, the receipt for the purchase of books does not state that it is an official receipt for income tax purposes and does not indicate the registration number assigned to the organization by the Minister. The same is true for the receipts for the children's party, child sponsorships and school uniforms.

[17] I have no doubt whatever that the appellant and her spouse visited Haiti from May 25, 2011, to June 15, 2011, for humanitarian purposes. The airline tickets, receipts for accommodation and transportation in Haiti, calling card invoices and photographs taken at the Pierre Elliot Trudeau Airport demonstrate this beyond any doubt. The appellant and her spouse appear to be sincere, and I have every reason to believe that they actually did incur the expenses claimed for charitable purposes. That is not where the problem lies.

[18] The problem lies in the fact that the appellant did not provide any "official receipt" containing the information required under section 3501 of the *Regulations*. The purpose of the requirements set out in the Regulations is to avoid abuses of any kind. They are the minimum requirements for defining the authenticity of a gift that can qualify the taxpayer making it for a tax deduction. The Court has no discretion to disregard the requirements of the *Regulations*.

[19] In this case, the appellant has not proven that the receipts meet the minimal requirements of sections 3500 and 3501 of the *Regulations*, and therefore cannot be entitled to the donation tax credit at issue.

[20] For these reasons, the appeal is dismissed.

Signed at Ottawa, Ontario, this 5th day of December 2014.

“Réal Favreau”

Favreau J.

Translation certified true
on this 20th day of January 2015
Martha Sanipe, Translator

CITATION: 2014 TCC 356
COURT FILE NO.: 2013-3318(IT)I
STYLE OF CAUSE: Elaine Lapointe and Her Majesty the Queen
PLACE OF HEARING: Montréal, Quebec
DATE OF HEARING: July 7, 2014
REASONS FOR JUDGMENT BY: The Honourable Justice Réal Favreau
DATE OF JUDGMENT: December 5, 2014

APPEARANCES:

For the appellant: The appellant herself
Agent for the respondent: Laurianne Dusablon-Rajotte

COUNSEL OF RECORD:

For the appellant:

Name:

Firm:

For the respondent: William F. Pentney
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