

**CORAM:**STRAYER, J.A.  
LINDEN, J.A.  
McDONALD, J.A.

**B E T W E E N:**

**HER MAJESTY THE QUEEN**

Appellant

-and-

**VINCENT LAO**

Respondent

HEARD at Toronto, Ontario, Thursday, October 23, 1997.

JUDGMENT delivered from the Bench at Toronto, Ontario, on Thursday, October 23, 1997.

REASONS FOR JUDGMENT BY:

LINDEN, J.A.

**CORAM:**STRAYER, J.A.  
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**REASONS FOR JUDGMENT**

**LINDEN, J.A.:**

While Mr. Griffin has made some cogent arguments about the inconsistencies and injustices of the law in this area, we are of the view that, unless and until Parliament or the Supreme Court of Canada revises the law, we are bound to decide these cases in accordance with the principles enunciated by this Court in *Phillips*. In our view, the taxpayer in this case is "better off" because his "net worth has been increased" by the payment of the so-called housing allowance of \$22,500. He has, to use the words used in *Hoefele*, been "enriched" not "restored". Hence, the amount is taxable under Section 6(1)(a).

In the light of this conclusion, there is no need to deal with the arguments raised under sections 6(1)(b) and 6(3).

The appeal will be allowed, the judgment of the Trial Judge will be reversed and the reassessment of the Minister will be restored. All reasonable and proper costs will be to the respondent.

"A.M. Linden"

J.A.

CANADA

FEDERAL COURT OF

Names of Counsel and Solicitors of Record

COURT NO: A-361-93

STYLE OF CAUSE: HER MAJESTY THE QUEEN

- and -

VINCENT LAO

DATE OF HEARING: OCTOBER 23, 1997

PLACE OF HEARING: TORONTO, ONTARIO

REASONS FOR JUDGMENT BY: LINDEN, J.A.

Delivered from the Bench at Toronto, Ontario  
on Thursday, October 23, 1997

APPEARANCES:

Mr. Donald G. Gibson  
Mr. Henry A. Gluch

For the Appellant

Mr. Warren D. Griffin

For the Respondent

SOLICITORS OF RECORD:

Department of Justice  
222 Queen Street  
Ottawa, Ontario  
K1A 0H8

George Thomson  
Deputy Attorney General  
of Canada

For the Appellant

Giesbrecht, Griffin & Funk  
60 College Street  
Kitchener, Ontario  
N2H 5A1

For the Respondent

**FEDERAL COURT OF CANADA**

Court No.: A-361-93

Between:

**HER MAJESTY THE QUEEN**

Appellant

- and -

**VINCENT LAO**

Respondent

**REASONS FOR JUDGMENT**