

Federal Court of Appeal		Cour d'appel fédérale
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Date: 20110510

Docket: A-247-09

Citation: 2011 FCA 164

**CORAM: LÉTOURNEAU J.A.
PELLETIER J.A.
TRUDEL J.A.**

BETWEEN:

GERARD GOULET

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Québec, Quebec, on May 10, 2011.

Judgment delivered from the Bench at Québec, Quebec, on May 10, 2011.

REASONS FOR JUDGMENT OF THE COURT BY:

PELLETIER J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Québec, Quebec, on May 10, 2011)

PELLETIER J.A.

[1] Mr. Goulet is appealing a decision by Justice Bédard (the Judge) of the Tax Court of Canada dismissing his appeal against his reassessment by the Minister for the 2003 taxation year.

[2] The sole issue relates to the nature, for the purposes of the *Income Tax Act*, R.S.C., 1985 (5th supp.) c. 1 (the Act), of the difference between the amount paid by Mr. Goulet to acquire non-interest-bearing debt obligations at a discount and the amount he received when these debt obligations were redeemed by their issuers. The issuers were business corporations that make use

of this type of financing. The amount at issue is \$30,164. In his income tax return, Mr. Goulet declared this amount as a capital gain. In a reassessment, the Minister instead characterized the difference between the redemption price for these debt obligations and their cost of acquisition as interest.

[3] Before the Tax Court of Canada, Mr. Goulet reviewed the provisions of the Act related to the definition and calculation of capital gains and taxable income, arguments that he reiterated in his memorandum of fact and law. Mr. Goulet has been no more successful in persuading this Court than he was in persuading the Tax Court of Canada that his position is well founded.

[4] The provisions of the Act regarding the tax treatment of amounts received by holders of debt obligations are quite clear and specific.

[5] Subsection 12(4) of the Act sets out that a taxpayer who holds interest in an investment contract on any anniversary day of the contract must include in his or her income the interest that accrued to him or her to the end of the anniversary day. The purpose of this provision is to render taxable the interest accrued but not paid in the course of a taxation year. An investment contract is defined at subsection 12(11) of the Act as any debt obligation, with some exceptions. The debt obligations held by Mr. Goulet do not fall under any of the exceptions listed.

[6] Subsection 12(9) sets out that, in some cases, the nature of the debt obligation will create difficulties in calculating the amount that must be included in the taxpayer's income. Such debt obligations are called "prescribed debt obligations". They are listed at subsection 7000(1) of the

Income Tax Regulations, C.R.C., 1978, c. 945 (the Regulations), starting with “a particular debt obligation in respect of which no interest is stipulated”: see paragraph 7000(1)(a). All of the debt obligations at issue in this appeal are non-interest-bearing debt obligations. It is clear that the legislator was referring deliberately and specifically to the types of debt obligations favoured by Mr. Goulet.

[7] Subsection 7000(2) of the Regulations sets out methods for calculating the amount of interest to include in the taxpayer’s taxable income for the taxation year for each of the debt obligations listed in subsection 7000(1), including the method for calculating the amounts to include in the income of a taxpayer who holds, in the course of a taxation year, an interest in a debt obligation in respect of which no interest is stipulated to be payable in respect of its principal amount.

[8] The Minister relied on these provisions in issuing Mr. Goulet’s notice of reassessment.

[9] The Tax Court of Canada Judge held that these provisions were applicable to the debt instruments in which Mr. Goulet had an interest in the course of the 2003 taxation year.

[10] We are of the opinion that the Judge committed no error that would warrant our intervention. The appeal will be dismissed with costs.

“J.D. Denis Pelletier”

J.A.

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-247-09

APPEAL FROM A DECISION BY MR. JUSTICE PAUL BÉDARD OF THE TAX COURT OF CANADA DATED MAY 19, 2009.

STYLE OF CAUSE: Gerard Goulet and Her Majesty The Queen

PLACE OF HEARING: Québec, Quebec

DATE OF HEARING: May 10, 2011

REASONS FOR JUDGMENT OF THE COURT BY: LÉTOURNEAU J.A.
PELLETIER J.A.
TRUDEL J.A.

DELIVERED FROM THE BENCH BY: PELLETIER J.A.

APPEARANCES:

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Julie David FOR THE RESPONDENT

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