Citation: 2017 TCC 56
Date: **20170605**
Docket: 2016-1884(IT)I

BETWEEN:

SUSANNE MCKENZIE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

## AMENDED REASONS FOR JUDGMENT

D'Auray J.

I. INTRODUCTION

[1] Susanne McKenzie has brought an appeal in regards to a Notice of Reassessment for the 2011 taxation year. The Minister of National Revenue (the "Minister") reassessed the appellant to include an amount of $21,740[1] in the appellant's income. This amount was paid to the appellant from a US individual retirement account ("US IRA") that the appellant inherited from her mother, Betty Ann Wicks, who passed away in 2007.

[2] In his submissions to the Court and written representations[2], the appellant's representative acknowledged that clause 56(1)(*a*)(C.1) of the *Income Tax Act*[3] (the "*Act*") would apply in respect of withdrawals from the US IRA. However, it is his position that there is an alternative taxing mechanism for the US IRA for Canadian income tax purposes. It is the appellant's view that given that the US IRA is held in a custodial arrangement, it is not a separate legal entity. For the appellant, the US IRA is nothing more than a bundle of securities, which are

---

1 Unless otherwise stated, all amounts set out in these Reasons for Judgment are in Canadian denominations.

2 Dated February 19, 2017.

3 RSC 1985, c 1 (5th Supp). Unless otherwise stated, all statutory provisions in these Reasons for Judgment are to the *Act*.

capital property. The appellant also asserted that there is double taxation, with the result that subsection 248(28) of the *Act* should apply.

## II. FACTS

[3] The parties filed an Agreed Statement of Facts on January 24, 2017, which is set out below.

AGREED STATEMENT OF FACTS

1. The Appellant and the Respondent agree, for the purposes of this appeal only, and any appeal therefrom, that the following facts are true. The parties are free to make submissions with respect to, and are not to be taken as agreeing to, the degree of relevance or weight to be attributed to these facts.

2. This agreement shall not bind the parties in any other action; may not be used against either party or any other occasion; and may not be used by any other party.

The Appellant and the Respondent have agreed to the following facts:

3. The issue in the appeal is whether there is an alternate taxing mechanism other than Section 56(1)(a)(i)(C.1) of the Income Tax Act to tax a US IRA and whether the issue of double taxability as enunciated in Section 248(28)(a) of the Income Tax Act is applicable in this context.

4. The Appellant is a Canadian resident for tax purposes and she is also a citizen of the United States of America (US).

5. The Appellant's mother Betty Ann Wicks who was a resident and also a US citizen died in 2007.

6. The Appellant received the amount of $21,740 CAD ($21,979 USD X 0,9891) in the 2011 taxation year which was included in her US individual income tax return[4]. […]

7. The $21,740 CAD was received as a distribution of the Appellant's mother's individual retirement account (the "US IRA"), which named the Appellant as the beneficiary.

8. The documents provided to the Appellant by Morgan Stanley Smith Barney for the purpose of reporting income to the United States Government, referred to as form 1099-R, reported that the Appellant received taxable pension

[4] A copy of the appellant's US 1040 individual income tax return for 2011 is attached as Appendix 1 to the Agreed Statement of Facts.

income for an amount of $21,979 qualified has code 4 death distribution "to indicate payment to a decedent's beneficiary".[5] […]

9. The amount of $21,979 USD was taxed in the US.

10. The Appellant did not include the amount of $21,740 CAD in her 2011 Canadian income tax return.

11. The Minister reassessed the Appellant on February 22, 2013, to include "US pension" in the amount of $21,740 CAD in computing the Appellant's income for the 2011 taxation year […] and also to allow a foreign tax credit of $3,296.85 CAD relating to the US income taxes paid on the amount distributed from the US IRA to the Appellant.[6]

12. The Minister confirmed the reassessment on February 12, 2016, on the basis that the "US pension [the Appellant] received in 2011 must be included in [the Appellant's] income according to paragraph 56(1)(a)(i)(C.1)".[7] […]

13. The US IRA was an US IRA custodial account which was established between the Appellant's mother and the Citigroup Global MKTS Inc.

14. The $21,740 CAD was paid to the Appellant in a lump-sum.

## III. ISSUES

[4] The parties raised the following two questions to be addressed:

a) Whether there is an alternate taxing mechanism for a US IRA, other than clause 56(1)(*a*)(C.1) of the *Act*; and

b) Whether subsection 248(28) of the *Act* is applicable.

---

5 A copy of Form 1099-R is attached as Appendix 2 to the Agreed Statement of Facts.

6 A copy of the Notice of Reassessment and a letter dated February 14, 2013, are attached as Appendix 3 to the Agreed Statement of Facts.

7 Copy of the Notice of Confirmation and the covering letter dated February 12, 2016, are attached as Appendix 4 to the Agreed Statement of Facts.

## IV. POSITION OF THE PARTIES

### A. Appellant's Position

[5] The appellant has two main arguments: (i) the US IRA should receive capital treatment, and (ii) there is double taxation for Canadian income tax purposes and accordingly, subsection 248(28) of the *Act* is applicable to prevent such double taxation.

[6] It is the appellant's position that there are two approaches for taxing US IRAs for Canadian income tax purposes and that the *Act* provides the taxpayer with the discretion to choose which of the two methods should apply. The appellant's view is that US IRAs may be treated as an inherited portfolio of securities. Under this approach, capital gains would dominate and investment income earned within the US IRA would be taxable. The second approach would be to treat withdrawals from a US IRA as income from a unique source of income under clause 56(1)(*a*)(i)(C.1) of the *Act*.[8]

[7] The appellant's position is based on the assertion that the US IRA, as a custodial arrangement, is not a trust and is not deemed to be a trust for Canadian income tax purposes.

[8] The appellant is of the view that it is not because subsection 408(h) of the United States' *Internal Revenue Code*[9] ("*US Internal Revenue Code*"), states "a custodial account *shall* be treated as a trust…" that a custodial account will be treated as a trust for Canadian income tax purposes. In the appellant's view, this wording is not equivalent to stating that a custodial account is deemed to be a trust for Canadian income tax purposes.

[9] In addition, the appellant submitted that there are specific requirements that must be met under subsection 408(a) of the *US Internal Revenue Code*, and in her view, the requirements under subsection 408(a) have not been met; namely there is

---

8 Appellant's representations (February 19, 2017) at para 24; Transcript (January 24, 2017) at page 5.

9 *US Internal Revenue Code of 1986* as amended from time to time.

no evidence that the US IRA is a trust nor is there evidence of a trust indenture or document creating the US IRA.[10]

[10] The appellant also argued that there is double taxation and therefore, subsection 248(28) of the *Act* should apply to prevent a double inclusion. In her Notice of Appeal, the appellant submitted that due to the expansive definition of the term "taxpayer" in subsection 248(1),[11] the appellant's mother was subject to a deemed disposition upon her death in 2007 pursuant to subsection 70(5) of the *Act*. As the withdrawals from the US IRA would also be subject to Canadian tax under clause 56(1)(*a*)(i)(C.1), the result is double taxation.

B. Respondent's Position

[11] The respondent's position is that the amount received by the appellant from the US IRA is taxable in Canada pursuant to clause 56(1)(*a*)(i)(C.1) of the *Act* and therefore, paragraph 39(1)(*a*) of the *Act* is not applicable. The respondent also submitted that the appellant's alternative taxing mechanism argument is not supported by any provision of the *Act* or by case law.[12]

[12] The respondent submitted that the US IRA is a "foreign retirement arrangement" as defined in subsection 248(1) of the *Act* and section 6803 of the *Income Tax Regulations*[13] (the "*Regulations*"). Specifically, the respondent submitted that subsection 248(1) defines a "foreign retirement arrangement" as a prescribed plan or arrangement, which is described in section 6803 of the *Regulations* as a plan or arrangement to which subsection 408(a), (b) or (h) of the *US Internal Revenue Code* applies.

[13] The respondent's position is that the appellant's US IRA falls within the ambit of subsection 408(h) of the *US Internal Revenue Code*, as a custodial account.

[14] According to the respondent, an entity that is not a bank and that requests to be approved as a nonbank trustee or custodian must meet the requirements of the

---

10 At pages 11 and 12 of the Transcript, the Appellant's representative states: "But we don't have evidence here that Morgan Stanley administered the account with the requirements of this section."

11 Notice of Appeal, at para A-46.

12 Transcript, at pages 16 and 21.

13 CRC, c 945 [*Regulations*].

Code of US Federal Regulations.[14] The respondent submitted that since 2010, Morgan Stanley Smith Barney ("Morgan Stanley") has been approved by the Commissioner of Internal Revenue as a nonbank trustee or custodian for purposes of section 408 of the *US Internal Revenue Code*. Further, the respondent noted that Citigroup Global MKTS Inc. ("Citigroup") has also been approved by the Commissioner as a nonbank trustee or custodian since 1985.

[15] The respondent also stated that the exception in clause 56(1)(*a*)(i)(C.1) does not apply since the pension income received as a lump sum was taxable in the US as it was included in the appellant's US individual income tax return for 2011. As a result, the amount of $21,740 was properly included in the appellant's Canadian income tax return for the 2011 taxation year.

[16] In her submissions to the Court, the respondent referred to the decisions *Jagmohan Singh Gill v R*[15] and *Kaiser v R*,[16] stating that these cases provide a good explanation of the application of clause 56(1)(*a*)(i)(C.1). However, as noted by the respondent, neither of these cases dealt with the appellant's argument; namely, the alleged alternative taxing mechanism.

[17] In the case *Kaiser*, the taxpayer was a US citizen resident in Canada. The taxpayer received, as beneficiary of his deceased father's estate, a sum from his father's US IRA. The issue in this case was whether the sum was properly included in the taxpayer's income pursuant to clause 56(1)(*a*)(i)(C.1). The taxpayer argued that the amounts should only be included under this clause if they constituted superannuation or pension benefits.[17] Justice Rowe rejected this approach, concluding that the amount should be included in the taxpayer's income based on a plain reading of the provision.[18] On this point, Justice Rowe stated the following:

> […] To be taxable in this instance, the important qualification is that the funds represent an amount of any payment out of or under that foreign retirement arrangement, not that the amount is received by a particular person only under circumstances to which the statutory and common law definitions of "superannuation and pension benefit" apply.[19]

---

14 The respondent cited *Code of Federal Regulations*, Title 26, part 1, section 1.408-2.F, at tab 3.

15 2012 TCC 302, 2012 CarswellNat 3286 [*Gill*], aff'd 2013 FCA 135, [2013] FCJ No 570.

16 [1994] 2 CTC 2385, 95 DTC 13 (TCC [General Procedure]) [*Kaiser*].

17 *Kaiser*, at para 13.

18 *Kaiser*, at para 15.

19 *Kaiser*, at para 20.

[18] In *Gill*, Justice Hogan was concerned with payments received by a taxpayer in a situation similar to the present appeal. The taxpayer in *Gill* was the beneficiary of his deceased sister's US IRA. The taxpayer's sister was a citizen of the United States. In the 2005 taxation year, the taxpayer received a lump sum amount on the redemption of the US IRA. The issue was whether the Minister properly included the amount received from the US IRA in the taxpayer's income pursuant to clause 56(1)(*a*)(i)(C.1).

[19] The taxpayer in *Gill* argued that the words "without limiting the generality of the foregoing" in subparagraph 56(1)(*a*)(i) were indicative of Parliament's intention that the "items listed in clauses (A) to (C.1) should be taxed only if they constitute superannuation or pension benefits as those terms are generally understood."[20] Justice Hogan noted the broadness of the language of clause 56(1)(*a*)(i)(C.1).[21] In dismissing the taxpayer's appeal, Justice Hogan commented that nothing in the wording of this clause suggests "the payment must fit within the common law definition of superannuation or pension benefit in order for it to be included in income."[22]

## V. ANALYSIS

### A. Foreign Retirement Arrangement

[20] The relevant provision in this appeal is clause 56(1)(*a*)(i)(C.1) of the *Act*. The *Act* sets out a specific scheme for the taxation of amounts from arrangements such as the US IRA. The appellant's argument of an alternate taxing mechanism with respect to the US IRA is not persuasive and cannot stand.

[21] Section 56 of the *Act* provides for the inclusion of certain amounts in a taxpayer's income. Subparagraph 56(1)(*a*)(i) enumerates certain benefits that are to be included in income as superannuation or pension benefits.

[22] Clause 56(1)(*a*)(i)(C.1) of the *Act*, in particular, states that "any payment out of or under a foreign retirement arrangement established under the laws of a country" will be included in computing the income of the taxpayer for a taxation year. There is an exception to this inclusion that applies where the amount would not be subject to income tax in the country in which the foreign retirement

---

20 *Gill*, at para 20.
21 *Gill*, at para 34.
22 *Gill*, at para 34.

arrangement is established (in this appeal, the United States) if the taxpayer were resident in that country. Specifically, the clause provides as follows:

> 56.(1) Amounts to be included in income for the year - Without restricting the generality of section 3, there shall be included in computing the income of a taxpayer for a taxation year
>
> > (*a*) pension benefits, unemployment insurance benefits, etc. - any amount received by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of,
> >
> > > (i) a superannuation or pension benefit including, without limiting the generality of the foregoing,
> > >
> > > […]
> > >
> > > > (C.1) the amount of any payment out of or under a foreign retirement arrangement established under the laws of a country, except to the extent that the amount would not, if the taxpayer were resident in the country, be subject to income inclusion in the country.

[Emphasis added.]

[23] Subsection 248(1) of the *Act* defines a "foreign retirement arrangement" as:

> 'Foreign retirement arrangement' means a prescribed plan or arrangement.

[Emphasis added.]

[24] For the purpose of the definition of "foreign retirement arrangement" in subsection 248(1) of the *Act*, section 6803 of the *Regulations* states that:

> A prescribed plan or arrangement is a plan or arrangement to which subsection 408(a), (b) or (h) of the *US Internal Revenue Code* applies."

[Emphasis added.]

[25] Section 408 of the *US Internal Revenue Code* deals with US IRAs. The relevant sections are 408(a) and 408(h). It reads as follows.

> Sec 408. Individual Retirement Accounts
>
> [Sec. 408(a)]

> (a) Individual Retirement Account - For purposes of this section, the term "individual retirement account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:
>
> > (1) Except in the case of a rollover contribution described in subsection (d)(3), in section 402(c), 403(a)(4), 403(b)(8), or 457(e)(16), no contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A).
> >
> > (2) The trustee is a bank (as defined in subsection (n)) or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.
> >
> > (3) No part of the trust funds will be invested in life insurance contracts.
> >
> > (4) The interest of the trust will not be commingled with other property except in a common trust fund or common investment fund.
> >
> > (6) Under regulations prescribed by the Secretary, rules, similar to the rules of section 401(a)(9) and the incidental death benefit requirements of section 401(a) shall apply to the distribution of the entire interest of an individual for whose benefit the trust is maintained.
>
> [Sec. 408(h)]
>
> (h) Custodial Accounts - For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in subsection (n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual retirement account described in subsection (a). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as trustee thereof.

[26] It is clear that the exception in clause 56(1)(*a*)(i)(C.1) of the *Act* does not apply in this appeal, since the appellant was subject to income tax in the US on the pension income. This is admitted by both parties in the Agreed Statement of Fact. It is also confirmed by Form 1099-R[23] which the appellant filed with her US Income Tax Return. On that form, it is indicated that the appellant received taxable pension income in the amount of $21,979 USD.

---

[23] Agreed Statement of Facts, tab 2.

[27] When I read clause 56(1)(*a*)(i)(C.1) of the *Act* in conjunction with section 248(1) that defines a "foreign retirement arrangement" as a prescribed plan or arrangement, and whereby section 6803 of the *Regulations* states that for the purposes of the definition, a "foreign retirement plan" in subsection 248(1) is a prescribed plan or arrangement to which subsection 408(a), (b) or (h) of the *US Internal Revenue Code* applies, I come to the conclusion that the amount received by the appellant is taxable under clause 56(1)(*a*)(i)(C.1) for the following reasons.

[28] In my view, the appellant ignores the wording of section 6803 of the *Regulations*, stating that a foreign retirement plan is a plan or an arrangement for which section 408(a), (b) or (h) of the *US Internal Revenue Code* applies. In addition, the appellant misinterprets subsections section 408(a) and (h) of the *US Internal Revenue Code*.

[29] Under subsection 408(a) of the *US Internal Revenue Code*, the term "individual retirement account" ("US IRA") means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries if the written governing instrument creating the trust meet certain requirements.

[30] However, subsection 408(h) of the *US Internal Revenue Code* states that a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in subsection (n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account is consistent with the requirements of this section.

[31] At the hearing, the appellant stated that the custodial account was not held by a bank or by a person approved by the Secretary as contemplated by subsections 408(h) and 408(n) of the *US Internal Revenue Code*. I therefore asked the respondent whether Morgan Stanley qualified as a bank under subsection 408(n) or was "another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account is consistent with the requirements of this section…" Although the question was posed in respect of Morgan Stanley, the evidence suggests that it should also have been asked with respect to Citigroup. According to the Agreed Statement of Facts, the US IRA was established between the appellant's mother and Citigroup.

[32] The respondent provided written representations with respect to both Morgan Stanley and Citigroup's status. The respondent referred to an Internal Revenue Service Announcement 2011-59 (the "Announcement") whereby a list of nonbank trustees and nonbank custodians were approved for the purposes of the

regulations, including the ones pertaining to individual retirement accounts. Pursuant to this announcement, both Citigroup (approval date of July 22, 1985) and Morgan Stanley (approval date of January 27, 2010) are listed as approved nonbank trustees or custodians for the purposes of section 408 of the *US Internal Revenue Code*. The respondent also provided a list effective as of February 2, 2016, in which Citigroup and Morgan Stanley are listed.

[33] Therefore, this condition of subsection 408(h) of the *US Internal Revenue Code* is met.

[34] Although the appellant agreed that the US IRA was a custodial account, she submitted that subsection 408(h) of the *US Internal Revenue Code* did not apply, since the conditions of subsection 408(a) were not met, namely that there was no evidence of trust indenture or instrument.

[35] I have difficulty with the appellant's position. Subsection 408(h) of the *US Internal Revenue Code* states that a custodial account shall be treated as a trust if the assets of such account are held by an approved person, and if the custodial account would, except for the fact that it is not a trust, constitute an individual retirement account described in subsection 408(a). Accordingly, since the custodial account is not a trust, there is no need for a trust indenture or instrument as submitted by the appellant.

[36] In this appeal, the custodial account was held by Citygroup which was a person authorized to administer the custodial account under section 408 of the *US Internal Revenue Code*. In addition, the custodial account constituted an individual retirement account for the exclusive benefit of an individual or his beneficiaries as described in subsection 408(a) of the *US Internal Revenue Code*. Therefore, the conditions of subsections 408(a) and (h) are met. The factual situation of this appeal is what is contemplated by subsections 408(a) and 408(h) of the *US Internal Revenue Code* and section 6803 of the Regulation and clause 56(1)(*a*)(i)(C.1) of the *Act*.

[37] In addition, the burden was on the appellant to establish that the conditions in paragraphs 408(a)(1) to (6) of the *US Internal Revenue Code* were not met. She did not lead any evidence to prove that these conditions were not met.

[38] I do not agree with the appellant that there is an alternative method for recording income, namely that the US IRA inherited by the appellant from her mother be treated as an investment portfolio (capital property) and that a capital

gain should be included in her income pursuant to subsection 39(1) of the *Act*, upon the disposition of the shares by the appellant or that a deemed disposition occurred when the appellant inherited the US IRA from her mother pursuant to subsection 70(5) of the *Act*.

[39] The *Act*, more particularly clause 56(1)(*a*)(i)(C.1), section 6803 of the *Regulations* and subsections 408(a) and 408(h) of the *US Internal Revenue Code* deals specifically with the situation at bar. In addition, subsection 70(5) of the *Act* does not apply in this appeal, since 70(5) (capital property of a deceased taxpayer) applies to residents of Canada only. The appellant's mother, Betty Ann Wicks, was not a resident of Canada; therefore there was no deemed disposition for Canadian income tax purposes under the *Act* upon her death.

[40] Accordingly, the amount of $21,740 received by the appellant as a distribution from her mother's US IRA is taxable under clause 56(1)(*a*)(i)(C.1) of the *Act*.

B. Double Taxation

[41] The appellant argued that subsection 248(28) of the *Act* is applicable. This provision provides that, without a contrary intention, no provision of the *Act* shall be read to result in the double counting of inclusions or deductions. Subsection 248(28) specifically states the following:

> 248(28) Limitation respecting inclusions, deductions and tax credits - Unless a contrary intention is evident, no provision of this Act shall be read or construed
>
> > (*a*) to require the inclusion or permit the deduction, either directly or indirectly, in computing a taxpayer's income, taxable income or taxable income earned in Canada, for a taxation year or in computing a taxpayer's income or loss for a taxation year from a particular source or from sources in a particular place, of any amount to the extent that the amount has already been directly or indirectly included or deducted, as the case may be, in computing such income, taxable income, taxable income earned in Canada or loss, for the year or any preceding taxation year;
> >
> > […]

[42] For subsection 248(28) of the *Act* to apply, the appellant would have to prove that there was an inclusion in her income of an amount and that such amount has already been directly or indirectly included in computing her income.

[43] The position of the appellant is stated in paragraph 25 of her written submissions:

> Given that a disposition of securities and its correspondent withdrawal of funds leads to double taxation, (Section 70(5)(a) and (b) and Subsections 56(1)(a)(C.1) of the Income Tax Act), our position is that Subsection 248(28) of the Income Tax Act would receive application by requiring the de-activation of an otherwise applicable tax provision.

[44] Subsection 70(5) of the *Act* deals with the capital property of a deceased taxpayer. Pursuant to subsection 70(5) the deceased taxpayer shall be deemed to have disposed of each capital property and received proceeds of disposition equal to the fair market value of the property before the death.

[45] As I stated earlier, subsection 70(5) of the *Act* is not applicable in this appeal. The appellant's mother, Ms. Wicks, was not a resident of Canada. She was a resident and citizen of the United States. The appellant's mother would not have been subject to a deemed disposition pursuant to subsection 70(5) as this provision does not apply to non-resident person.

[46] The tax liability of a person resident in Canada is set out in subsection 2(1) of the *Act*. Subsection 2(3) describes a non-resident person's tax liability and states:

> 2(3) Tax payable by non-resident persons - Where a person who is not taxable under subsection (1) for a taxation year
>
> (*a*) was employed in Canada,
>
> (*b*) carried on a business in Canada, or
>
> (*c*) disposed of a taxable Canadian property,
>
> at any time in the year or a previous year, an income tax shall be paid, as required by this Act, on the person's taxable income earned in Canada for the year determined in accordance with Division D.

[Emphasis added.]

[47] Notably, Division D of the *Act* is entitled "Taxable Income Earned in Canada by Non-Residents" and begins with section 115 of the *Act*. Subsection 70(5) did not apply to the mother of the appellant since she was **not** a Canadian resident.

[48] The appellant was correctly assessed by the Minister; clause 56(1)(*a*)(i)(C.1) of the *Act* is the applicable provision in this appeal. As it was stated in the Agreed Statement of Facts, the Minister allowed a foreign tax credit of $3,296.85 CAD relating to the US income tax paid on the amount distributed from the US IRA to the appellant.

VI. CONCLUSION

[49] The appeal is dismissed with costs.

**These Amended Reasons for Judgment are issued in substitution of the Reasons for Judgment dated April 5th 2017.**

Signed at Ottawa, Canada, this 5th day of June 2017.

"Johanne D'Auray"

D'Auray J.

| | |
|---|---|
| CITATION: | 2017 TCC 56 |
| COURT FILE NO.: | 2016-1884(IT)I |
| STYLE OF CAUSE: | SUSANNE MCKENZIE v HER MAJESTY THE QUEEN |
| PLACE OF HEARING: | Montreal, Quebec |
| DATE OF HEARING: | January 24, 2017 |
| **AMENDED** REASONS FOR JUDGMENT BY: | The Honourable Justice Johanne D'Auray |
| DATE OF JUDGMENT: | April 5, 2017 |

APPEARANCES:

| | |
|---|---|
| Counsel for the Appellant: | Ciro Paul Scotti |
| Counsel for the Respondent: | Claude Lamoureux |

COUNSEL OF RECORD:

For the Appellant:

| | |
|---|---|
| Name: | Ciro Paul Scotti |
| Firm: | Protax Financial Services Inc. |

For the Respondent: William F. Pentney
Deputy Attorney General of Canada
Ottawa, Canada