

Docket: 2003-1890(IT)G

BETWEEN:

FRANÇOIS HOULD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on January 19, 2005, at Sherbrooke, Quebec

Before: The Honourable Judge Paul Bédard

Appearances:

Counsel for the Appellant: Richard Généreux

Counsel for the Respondent: Julie David

JUDGMENT

The appeals from the reassessments made under the *Income Tax Act* for the 1994, 1995, 1996 and 1997 taxation years are allowed, with costs, and the reassessments are referred back to the Minister of National Revenue for reconsideration and reassessment, in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 28th day of February 2006.

"Paul Bédard"

Bédard J.

Translation certified true
on this 31st day of July 2006.

Julie Poirier, Translator

Citation: 2006TCC23
Date: 20060228
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REASONS FOR JUDGMENT

Bédard J.

[1] The Appellant disputes the reassessments made by the Minister of National Revenue (the "Minister") using the net worth method for the years 1994 to 1997 (the "relevant period"). The Minister added to the Appellant's income unreported income of \$34,550 in 1994, \$73,604 in 1995, \$62,697 in 1996 and \$39,969 in 1997, in accordance with the details provided in Annex A of the Reply to the Notice of Appeal, and assessed a penalty under subsection 163(2) of the *Income Tax Act* (the "Act") for each of those years. The assessments were made after the normal reassessment period, but counsel for the Appellant stated at the hearing that he would not dispute their validity by arguing that fact. He also agreed to emphasize that counsel for the respondent admitted at the start of the hearing that the Minister should have added unreported income of \$58,697 (instead of \$62,697) to the Appellant's income for 1996.

[2] The Appellant contends that the Minister made errors in computing his income using the net worth method. To make it easier to understand the points at issue, I append hereto Annexes C and D of the Reply to the Notice of Appeal, which are a summary of calculations made by the Minister to determine the Appellant's unreported income, and Annexes A and B of the notice of appeal,

which are a summary of calculations made by the Appellant to determine his unreported income.

[3] The aforementioned errors include the following:

(i) the absence of certain debts, in particular a \$25,000 loan that Guy Lemoyne allegedly granted to the Appellant in 1994, as well as a \$35,000 loan that the Caisse populaire Coaticook allegedly granted him in 1995;

(ii) the addition of drawings: the Minister determined that most of the Appellant's drawings ¹ from Distribution F.H. Enr., Circuit M.H. Inc., Gérard Prévost Inc. and withdrawals from his personal bank accounts and credit cards constituted consumer expenses of the Appellant during the relevant period; the Appellant contended that the method thus used by the Minister to establish his cost of living was entirely unreasonable and illogical in the circumstances. The Appellant moreover determined his own cost of living using data published by Statistics Canada (Exhibit A-1).

Background

[4] In 1994 and 1995, the Appellant operated an automotive tools and parts sales business under the trade name "Distribution F.H. Enr." ("Distribution"), also known by the trade name "Promotions F.H. Enr.". The Appellant terminated the activities of Distribution in 1995. During that year, the Appellant transferred the inventory from Distribution to Gérard Prévost Inc., which operated an automotive parts sales business in Lennoxville. The shares of Gérard Prévost Inc. had been acquired in 1995 by 9023-7256 Québec Inc., the shares of which were held equally by the Appellant and his father. In 1994, the Appellant began operating a race track in the municipality of Coaticook. That business was operated by the Appellant personally, and the income from it was included in the income of Distribution. Toward the end of 1994, the race track was operated by Circuit M.H. Inc. ("Circuit").

[5] The Minister used the net worth method to determine the Appellant's unreported income because, on the one hand, he had noticed that the Appellant had made a large number of cash transactions and, on the other hand, the Appellant kept few of the vouchers necessary to reconcile the various accounts in the financial statements of his corporations and businesses.

¹ See "Adjustments" item in Annex D.

Analysis

Burden of Proof

[6] First of all, the Court must consider the burden of proof, which is on the Appellant in his appeals. My colleague, Tardif J., had occasion to consider the burden of proof in a matter involving a net worth evaluation, as is here the case.

[7] In *Bastille v. Her Majesty the Queen*, 96-4370(IT)G, December 9, 1998, 99 DTC 431, 4 C.T.C. 2155, he wrote, at paragraphs 5 ff.:

[5] I think it is important to point out that the burden of proof rests on the Appellants, except with respect to the question of the penalties, where the burden of proof is on the respondent.

[6] A **NET WORTH** assessment can never reflect the kind of mathematical accuracy that is both desired and desirable in tax assessment matters. Generally, there is a certain degree of arbitrariness in the determination of the value of the various elements assessed. The Court must decide whether that arbitrariness is reasonable.

[7] Moreover, use of this method of assessment is not the rule. It is, in a way, an exception for situations where the taxpayer is not in possession of all the information, documents and vouchers needed in order to carry out an audit that would be more in accordance with good auditing practice, and most importantly, that would produce a more accurate result.

[8] The bases or foundations of the calculations done in a net worth assessment depend largely on information provided by the taxpayer who is the subject of the audit.

[9] The quality, plausibility and reasonableness of that information therefore take on absolutely fundamental importance.

[8] Another of my colleagues, Bowman J. (as he then was), made the following comments in *Ramey v. The Queen*, 91-547(IT), April 20, 1993, T.C.J. No. 142 (Q.L.), [1993] 2 C.T.C. 2119, 93 DTC 791:

I am not unappreciative of the enormous, indeed virtually insuperable, difficulties facing the Appellant and his counsel in seeking to challenge net worth assessments of a deceased taxpayer.

The net worth method of estimating income is an unsatisfactory and imprecise way of determining a taxpayer's income for the year. It is a blunt instrument of which the Minister must avail himself as a last resort. A net worth assessment involves a comparison of a taxpayer's net worth, i.e. the cost of his assets less his liabilities, at the beginning of a year, with his net worth at the end of the year. To the difference so determined there are added his expenditures in the year. The resulting figure is assumed to be his income unless the taxpayer establishes the contrary. Such assessments may be inaccurate within a range of indeterminate magnitude but unless they are shown to be wrong they stand. It is almost impossible to challenge such assessments piecemeal. The only truly effective way of disputing them is by means of a complete reconstruction of a taxpayer's income for a year. A taxpayer whose business records and method of reporting income are in such a state of disarray that a net worth assessment is required is frequently the author of his or her own misfortunes.

[9] In the instant appeals, Denis Simard, a supervisor with the Canada Customs and Revenue Agency (the "Agency"), was the only person to testify in support of the Minister's position. It should be pointed out that Mr. Simard was the supervisor of Ginette Leblond, who acted as auditor for the Agency in the instant case. Ms. Leblond did not testify at the hearing. The Appellant testified. Guy Lemoyne, Lyne Émond and the Appellant's father also testified in support of the Appellant's position. I wish to emphasize that I did not consider Ms. Émond's testimony, as she stated that she had begun working for the Appellant's accounting office in 2000 and was thus unable to provide any explanations for the relevant period.

[10] In assessing the evidence provided by the Appellant, the Court must comment on the failure to call certain persons as witnesses and to provide the documentary evidence that could have confirmed the Appellant's statements. In *Huneault v. The Queen*, 98 DTC 1488, my colleague, Lamarre J., recalled, at paragraph 25, remarks made by Sopinka and Lederman in *The Law of Evidence in Civil Cases* which were cited by Sarchuk J. of our Court in *Enns v. M.N.R.*, APP-1992(IT), February 17, 1987, 87 DTC 208, at page 210:

In *The Law of Evidence in Civil Cases*, by Sopinka and Lederman, the authors comment on the effect of failure to call a witness and I quote:

In *Blatch v. Archer*, (1774), 1 Cowp. 63, at p. 65, Lord Mansfield stated:

'It is certainly a maxim that all evidence is to be weighed according to the proof which it was in the power of one

side to have produced, and in the power of the other to have contradicted.'

The application of this maxim has led to a well-recognized rule that the failure of a party or a witness to give evidence, which it was in the power of the party or witness to give and by which the facts might have been elucidated, justifies the court in drawing the inference that the evidence of the party or witness would have been unfavourable to the party to whom the failure was attributed.

In the case of a plaintiff who has the evidentiary burden of establishing an issue, the effect of such an inference may be that the evidence led will be insufficient to discharge the burden. (*Lévesque et al. v. Comeau et al.* [1970] S.C.R. 1010, (1971), 16 D.L.R. (3d) 425.)

General Assessment of Appellant's Credibility

[11] In the instant case, before analyzing the relevant facts in detail, it is useful to make certain general comments on the credibility of the Appellant, who, I would recall, was virtually the only person (with the exception of Mr. Lemoyne and his father) to testify in support of his appeal. I emphasize that the Appellant actually filed only two documents in support of his position, a contract to purchase the shares of Gérard Prévost Inc. (Exhibit A-3) and a contract entered into by Clément Lavoie and the Appellant (Exhibit A-4). In my view, it would be hazardous to lend the Appellant's testimony any credence without any conclusive corroborating evidence in the form of documentation or testimony by credible witnesses.

[12] The Appellant's answers were generally vague, imprecise and ambiguous. All too often in cross-examination, he was unable to provide any valid explanation of his operations; he constantly repeated that only his in-house and outside accountants, who, I note again, did not come and testify, were able to give valid explanations. Not only were his answers generally vague and imprecise, they were at times contradicted by documentary evidence. For example, the Appellant testified that he had worked for Gérard Prévost Inc. from 1995 to 1997 and that, in that capacity, he had received a weekly salary of \$500 during that period. However, the Appellant reported no employment income from that corporation in his returns of income for either of those years.² Furthermore, in his returns of income for 1996 and 1997, when he was no longer personally operating a business, the Appellant reported business income for which he was unable to give any explanation whatever. Of course, the fact that the events occurred a number of years ago may explain a certain

² See Exhibits I-5, I-6 and I-7.

lack of clarity or memory lapses by the Appellant, but there is a difference between that and being unable to explain why his employment income did not appear in his returns of income and being unable to explain the nature of the business he had personally operated during those years. For those reasons, I attached little probative value to the Appellant's testimony where not corroborated by sound documentary evidence or by the testimony of credible witnesses.

Balance Sheet

[13] I note, in Annex A of the notice of appeal, that the Appellant disputes only two items in the balance sheet prepared by the respondent. I recall that the first point disputed by the Appellant is related to a \$25,000 loan that Guy Lemoyne purportedly granted him in 1994, while the second concerns a \$35,000 loan that the Caisse populaire Coaticook purportedly made to him in 1995.

\$25,000 Loan

[14] In his notice of appeal, the Appellant alleged that, in 1994, he had borrowed \$25,000 from Guy Lemoyne, a childhood friend, and had partially repaid that loan in 1997, by handing over a Harley-Davidson motorcycle worth \$9,000. The Appellant explained in his testimony that the proceeds of the loan had been used to purchase and install a lighting system for the race track that he operated. The Appellant also testified that the balance of the loan (\$16,000) had been repaid in cash, in two \$4,000 payments in 1997 and two more \$4,000 payments in 1998, partly as a result of a loan made to him by his brother-in-law.

[15] The Appellant's evidence on this disputed point essentially rested on his testimony and that of his childhood friend, Mr. Lemoyne, who more or less corroborated the Appellant's testimony on the matter. The Appellant was unable to support his testimony with any documentary evidence whatever, as that evidence was non-existent. I emphasize that the \$25,000 cash loan bore no interest and had no terms of repayment. Lastly, I note that there was no documentary evidence relating to the repayment of the loan. At best, the evidence showed that a motorcycle was sold to a third party in 1998 and that it could not have been handed over to Mr. Lemoyne (in partial repayment of the loan), as the Appellant had initially contended in his notice of appeal. It would have been very interesting to hear the testimony of the brother-in-law who allegedly made a loan to the Appellant in 1997 or 1998, the proceeds of which were purportedly used to repay the initial \$25,000 loan in part in 1997 or 1998. Of course, the documentary evidence establishing the loan made to the Appellant by his brother-in-law was

non-existent. The Appellant could have submitted documentary evidence relating to the purchase of a lighting system for the race track. He had a unique opportunity to base his credibility on adequate documentary evidence. This he did not do. I infer from this that the evidence would not be favourable to him. Lastly, the fact that the Appellant did not state at the objection stage that the \$25,000 loan existed was also decisive in my decision to attach little probative value to the testimony of the Appellant and Mr. Lemoyne on this point. For these reasons, I find that the Minister rightly did not consider the \$25,000 loan in the Appellant's balance sheet.

\$35,000 Loan

[16] Paragraph 12 of the notice of appeal reads as follows:

[TRANSLATION]

For the purposes of the acquisition of the shares of Gérard Prévost Inc., the Appellant borrowed \$35,000 from the Coaticook Caisse Populaire Desjardins. Circuit M.H. Inc. was used as a mandatary for the Appellant for the purposes of taking out the loan, at the request of the financial institution.

[17] Paragraph 22 of the written argument of counsel for the Appellant reads as follows on this point:

[TRANSLATION]

The Appellant also argued that he had borrowed \$35,000 in 1995 for the purpose of acquiring the shares of Gérard Prévost Inc. The Appellant contends that Circuit M.H. Inc. acted as his mandatary since the Coaticook Caisse Populaire did not want to deal directly with him and had also required a personal guarantee from a certain Clément Lavoie. For the purpose of demonstrating that an amount of \$35,000 should be added to the liabilities on his balance sheet for net worth purposes, the Appellant filed a contract dated March 22, 1996, at the hearing as Exhibit A-3. That notarial contract states that Clément Lavoie was the "creditor" and that the Appellant was the "debtor". It also states that Circuit M.H. Inc. signed a loan contract at the request of the Caisse Populaire for an amount of \$35,000 bearing interest at a rate of 10.25 percent. Mr. Lavoie signed a guarantee for the said loan. The Appellant contends that the \$35,000 should appear in the balance sheet since he was the debtor under the contract and clause 7 states that he would be personally in default if he "does not pay, on their respective due dates, each of the principal or interest payments owed under the terms hereof." He also contracted a \$35,000 hypothec in favour of the Caisse Populaire and Mr. Lavoie against the property that he personally owned.

[18] The following points emerge from my analysis of the contract (Exhibit A-3) signed by Clément Lavoie and the Appellant on March 22, 1996 (the "contract"):

(i) Circuit M.H. Inc. signed a contract for a demand loan in the amount of \$35,000 bearing interest at the rate of 10.250 percent per annum granted by the Coaticook Caisse populaire Desjardins (the "Caisse") dated December 7, 1995;

(ii) Clément Lavoie, the Appellant's creditor under the terms of the contract, stood surety for Circuit M.H. Inc. in relation to the Caisse for the amount of \$35,000 under the terms of a specific guarantee signed on December 7, 1995;

(iii) in order to guarantee Mr. Lavoie repayment of any amounts that he might be required to pay to the Caisse under the terms of the guarantee, the Appellant (called the debtor for the purposes of the contract) agreed to the following guarantee: the Appellant assigned and mortgaged to Mr. Lavoie a property belonging to him, up to a maximum of \$35,000.

[19] In my view, the contract in no way shows that the Appellant was the principal debtor of the \$35,000 loan that the Caisse granted on December 7, 1995. The contract simply shows that the Appellant would have been Mr. Lavoie's debtor in the event Mr. Lavoie were required to pay any sum whatever to the Caisse under the terms of the guarantee that he had given the Caisse on December 7, 1995, to guarantee repayment of the \$35,000 loan made by the Caisse to Circuit M.H. Inc. that same day.

[20] Ultimately, the Appellant's evidence that Circuit M.H. Inc. had acted as a mandatary for the purpose of the \$35,000 loan is based solely on the Appellant's testimony. It is hard for me to lend any credence to the version of the facts given by the Appellant on this point when the documentary evidence clearly points in the opposite direction.

[21] I therefore conclude that the Appellant's balance sheet prepared by the Minister is accurate and that the Appellant's net worth thus increased by \$2,354 in 1994, \$10,255 in 1995, \$20,164 in 1996 and \$4,126 in 1997.

Consumption Expenditures Established by Appellant

[22] I would recall that the net worth method consists briefly in valuing the increase in the taxpayer's net worth over a given period and adding the taxpayer's cost of living during that same period.

[23] To establish his consumption expenses during the relevant period, the Appellant determined his cost of living using the figures prepared by Statistics Canada³ and filed in evidence a table on the matter (Exhibit A-1). However, Denis Simard testified that he had not used that method to establish the Appellant's consumption expenses because he felt that the method was too arbitrary in this case. The reasons Mr. Simard gave on this point are worthy of note:

[TRANSLATION]

The other method that we could have used was to go about it arbitrarily taking Statistics Canada figures. Because that's very, very, very arbitrary. We can't do that; it's ... to do that, to do that ... to take that situation, we would have had to be in a situation where the taxpayer had no bank account and we can't rely on the accounting records of the business. No figures were recorded and, in other words, there are very few accounting records.

Q. But that didn't apply in the case at hand?

A. But it didn't apply in our case. It didn't apply.

[24] I note in Exhibit A-1 that the Appellant deducted a spousal contribution of \$7,200 from his cost of living for each of the years in the relevant period. The Appellant testified that he had successively lived with two common-law spouses during the relevant period. And yet the Appellant did not indicate in his returns of income that he had had a spouse during the relevant period. Having regard to the lack of probative value that I attach to the Appellant's testimony where it is not supported by sound documents or by the testimony of independent and credible witnesses, I am of the view that the Appellant could not deduct that \$7,200 from his cost of living. Consequently, the Appellant's cost of living, as it appears in Annex A, would be \$17,750, \$17,960, \$18,175 and \$18,395 for 1994, 1995, 1996 and 1997 respectively, instead of \$10,550, \$10,760, \$10,975 and \$11,195 respectively.

[25] Consequently, if I amend the amounts in Annex B (summary of calculations made by the Appellant to establish his unreported income) related to the increase in net worth and to the item "Mr. Hould's cost of living" to reflect my findings on these two points,⁴ I find that the unreported income as established by the Appellant in Annex B would be \$24,260 for 1994, \$23,543 for 1995, \$37,357 for 1996 and \$25,676 for 1997.

³ See Exhibit A-1.

⁴ See my analysis in paragraphs 13 to 21 and 22 to 24.

Appellant's Cost of Living Determined by the Respondent

[26] The Minister determined that the withdrawals of Distribution, Gérard Prévost Inc. and Circuit M.H. Inc. from bank accounts and credit cards were used by the Appellant for personal consumption purposes. Those withdrawals were added as adjustments by the Minister in computing the Appellant's unreported income determined by the net worth method. The Appellant fundamentally contended that the method the Minister used to establish his cost of living during the relevant period was utterly unreasonable and illogical in the circumstances.

Bank Account and Credit Card Withdrawals

[27] In particular, the Minister added the following items to the Appellant's living costs:⁵

	1994	1995	1996	1997
(i) Withdrawals from Caisse populaire Lennoxville # 10241 ⁶			\$42,726	\$5,562
(ii) Withdrawals from National Bank # 0354602 ⁷			\$60	\$12,647
(iii) Credit card withdrawals (Mastercard) ⁸	\$7	\$671	\$677	\$1,656
(iv) Credit card withdrawals (Visa) ⁹	—	—	<u>\$185</u>	<u>\$1,360</u>
	\$7	\$671	\$43,648	\$21,225

[28] In his written argument, counsel for the Appellant stated the following position on this point:

⁵ See "Adjustments" item in Annex D.

⁶ See Exhibits I-18 and I-19.

⁷ See Exhibit I-20

⁸ See Exhibit I-22.

⁹ See Exhibit I-21.

[TRANSLATION]

The Respondent also added withdrawals from the Appellant's various bank accounts and credit cards. Those adjustments by the Respondent are also based on premises that are unreasonable and illogical in the circumstances. The withdrawn amounts were necessarily used for contributions to the various entities (Distribution F.H., Circuit M.H. Inc., 9023-7256 Québec Inc., Gérard Prévost Inc.). The equity of the various entities and the shareholder's contributions have already been recorded on the Appellant's balance sheet. Furthermore, those withdrawals may have been used for business expenses (subsequently reimbursed) for the purchase of other assets recorded on the Appellant's balance sheet and for payment of the Appellant's debts recorded on the Appellant's balance sheet.

In short, the respondent cannot assign the title "personal expenses" to adjustments that result in a triple accounting...

[29] To state it briefly, withdrawals can only be used for the purpose of saving (that is to say of buying assets or paying down debts) or consumption. It is therefore true that, in principle, withdrawals can be used for savings and that, if this is the case, we have double taxation, since the savings (that is to say the increase in net worth) are already recorded on the taxpayer's balance sheet where the Minister uses the net worth method to determine a taxpayer's unreported income.

[30] It may also be said that, where withdrawals are greater than the savings already recorded on the taxpayer's balance sheet, withdrawals not used for savings are necessarily used to cover the taxpayer's living costs. For example, in 1996, the increase in the Appellant's net worth was \$20,164, and his credit card and bank account withdrawals totalled \$43,646. Consequently, it can be said that the withdrawals unrelated to savings (\$23,482) were used by the Appellant to finance his living costs.

[31] Even though a portion of the withdrawals can in principle be linked to savings, the Appellant, on whom the burden of proof rests, must still show that the withdrawals were used for that purpose. The Appellant was obligated to show me by means of supporting documents, in view of his lack of credibility, that withdrawals were used to purchase assets or to pay debts. Of course, the Appellant could have made cash withdrawals and used that money for savings purposes. In that case, the Appellant had to at least show me which assets and liabilities were paid for in cash.

[32] The Appellant in the instant case was content to raise assumptions without supporting them with sufficient evidence. I would point out that the onus of proof was on the Appellant. I do not feel that the Appellant has been able to discharge the burden that was on him by merely assuming that he had been taxed twice.

[33] I note that, in his great generosity, the Minister deducted the following items from the withdrawals:

	1996	1997
Trans Canada credit payments	\$2,610	\$3,522
Amount allowed (unvouchered)	\$20,685	\$21,016

It can therefore be stated that these items (the amounts of which were stated in the vouchers and thus deducted purely arbitrarily) largely offset the withdrawals that might be related to the savings already shown on the Appellant's balance sheet for those years.

[34] For these reasons, I find that the Minister was correct in making these adjustments in his net worth calculation to determine the Appellant's unreported income.

Drawings from Distribution F.H. Enr.

[35] The Minister determined that the Appellant had used all the amounts debited from account 26330 (entitled "Drawings") of Distribution (Exhibits I-15 and I-16) for personal consumption purposes. The Minister therefore recorded those drawings (\$62,352 in 1994 and \$89,312 in 1995) as adjustments in the net worth calculation.

[36] The Minister's reasoning on this point was as follows: had it not been for those drawings from Distribution, Distribution's equity, which moreover appears on the Appellant's balance sheet, would have been that much greater. For example, if \$62,352 had not been drawn in 1994, the equity of Distribution as at December 31, 1994, would have been \$85,076, not \$22,724, and the increase in the Appellant's net worth for that year would accordingly not have been \$2,354, but rather \$64,706.

[37] I note that the Minister deducted the following amounts from those drawings of \$62,352 entered as adjustments in 1994:

- (i) \$10,937 in respect of the repayment of a loan;
- (ii) \$3,650 in respect of payment to Trans Canada Credit;
- (iii) \$20,000 allocated without vouchers.

[38] I also note that, in 1995, the Minister deducted the following amounts from the drawings of \$89,312 entered as adjustments:

- (i) \$4,272 in respect of payment to Trans Canada Credit;
- (ii) \$20,360 allocated without vouchers.

[39] Mr. Simard's explanations of those three adjustment deductions are worthy of note:

[TRANSLATION]

A. No, no, no, no, no. With regard to the repayment of a loan, in the \$62,352.40 ...

Q. Yes, yes?

A. ... when we did the analysis, we realized that it included repayments of a loan that had been made within the \$62,000; so we removed them.

Q. Yes.

A. Then the same thing for "Trans-Canada Credit payment".

Q. Hm, hm.

A. Okay. That's why. We discovered that those amounts came from a loan repayment. So they had to be deducted or else the loan would have been taxed.¹⁰

[...]

Q. Could you explain to us about the \$20,000 that was allocated without vouchers?

A. Okay.

THE COURT:

¹⁰ Pages 191 and 192 of the transcript.

Q. And explain to us this outburst of generosity.

A. Yes, that's ... Admittedly, what I'm going to explain to you is that we had a problem in this case. We had a problem, and that was that everything was mixed up; it was really mixed up, really, and we lacked vouchers so that we could come and prove a particular item; we were lacking all sorts of information. We ultimately allocated those amounts to ensure, simply to ensure that there wouldn't be any money that would have been used for the business. That's why we deducted \$20,000 each year, to make sure because we couldn't find a method that would enable us to follow a straight path and say: "That's it." We couldn't. We rarely have a problem like this because there's a registered business; there are two companies. We saw that everything was mixed up. So, we said, we really want to be sure. And I remember it was I who asked the auditor to put in that amount because he didn't agree with it. I wanted to be sure we didn't penalize him. It was simply for that, in order to arrive at reasonable figures. Quite simply, that was it.

Q. So ultimately, \$20,000 for... that's an amount that would have been used for the purposes of the businesses or...

A. In case... Because we said to ourselves: he may have taken the money from the business, but ultimately that wouldn't have been shown. That might be possible. That's still in the realm of the possible. So to be sure that we didn't tax excessively, we put in that amount, which is completely arbitrary, and there's no further explanation on that. Why aren't they equal? That's because we...

Q. The cost of living?

A. Yes, there's inflation.

Q. Indexed generosity.

A. Generosity... that's it.

Q. Hey, that's going to look good in my judgment: indexed generosity.¹¹

[40] Counsel for the Appellant's written argument on the drawings is as follows:

[TRANSLATION]

The amounts that are part of the Respondent's net worth calculation, which are entitled "Expenses paid by Promotion FH", \$62,352.40 (1994) and \$89,312.19 (1995) respectively, cannot be added since those amounts are recorded at least three times, in particular for the following reasons:

¹¹ See pages 192 to 194.

- the auditor admitted that the balance of the "Drawings" account (I-15 and I-16) was taken into account for the purposes of the net worth determination since that account is part of the calculation of the "Equity in Distribution FH" entry on the Appellant's balance sheet; the amounts entered under the heading "Equity in Distribution FH" on the Appellant's balance sheet for the various years are not disputed;

- the auditor admitted that he had added to the net worth calculation under the heading "Expenses paid by Promotion FH" the drawings entered in the debit column only of the "Drawings" account (Exhibits I-15 and I-16) in the amounts of \$63,352 and \$89,312 for 1994 and 1995, respectively;

- those amounts have the same effect as calculating withdrawals from a personal bank account without regard to an analysis of deposits;

- it is clear from the analysis of the "Drawings" account for 1994 and 1995 that the Appellant withdrew amounts according to various situations, such as, for example, to repay businesses expenses, after making personal contributions, for transfers to other accounts (credit card, personal account, loan, etc.);

- the Appellant reported total sales of \$162,237 for 1994 (Exhibit I-14), and some of the receivables recorded in his sales were entered in the "Drawings" account;

- the auditor admitted in his testimony that the balance of the "Drawings" account is not really significant since the Appellant's contributions correspond entirely, or almost entirely, to the various withdrawals for the same period; for example, the balance for 1995 is a debit of \$953.31 (Exhibit I-16);

- it appears from Exhibit I-17 (excerpt from account 24030) that transfers of funds were made between Circuit M.H. Inc. and Distribution F.H. for 1995, thus confirming the Appellant's testimony;

- these drawings (debit column) were necessarily used for subsequent contributions (credit column), for the payment of debts, for the payment of credit cards, for the reimbursement of business expenses, for the purchase of assets that were considered in establishing the equity in "Distribution FH" or to establish the Appellant's balance sheet, and so on.

[41] Counsel for the respondent's written argument on the drawings is as follows:

[TRANSLATION]

Distribution FH Enr.

57. On the balance sheet of Distribution FH, Exhibit I-13, the Minister has taken the figures from that balance sheet, as it appears, from Exhibit I-1 and from

the amount of equity in Distribution FH Enr. appearing on François Hould's balance sheet, Exhibit I-2.

58. A question arises concerning drawings on account #26 330, Exhibits I-15 and I-16, as to why the accountant's same figures would not then be accurate.
59. It is important to recall that the drawings from the business redeposited to his personal account were not considered in the adjustments since they were included in the withdrawals from his personal account.
60. Contrary to what the Appellant claims, it is not clear that the analysis of the drawings account shows that repayments were made to the advance account since the taxpayer was unable to justify the business expenses that he paid and that were reimbursed to him by the business.
61. The analysis of the advance account does not show the following entries:

Example:

Purchase of automotive parts	\$1,232.57
Maintenance and repairs	\$ 620.32
Shareholder advance	\$1,852.89

On the contrary, we note the following entries:

Bank	\$1,500.00
Advance	\$1,500.00

(This entry represents a shareholder contribution.)

62. Furthermore, as in the example cited above, we found that most of the reimbursements were for amounts such as \$500 or \$1,000. Consequently, it is inconceivable from an accounting standpoint that the Appellant could have been reimbursed for amounts paid in cash.
63. Furthermore, we do not deny that the taxpayer paid for expenses in cash within the business, but we are saying that they were not entered in the advance account since most of the transactions were made in cash.
64. In view of the fact that the audit was conducted on a net worth basis, all the reimbursements made by the Appellant were taken into account in his balance sheet. Thus, if we had not considered the reimbursements, the balance would be higher, resulting in an increase in net worth and additional income.

[42] It is possible that some assets acquired by the Appellant in 1994 and 1995 and the payment of certain debts by the Appellant during those years were financed by these drawings, in which case there would have been double taxation since the savings (purchase of assets or payment of debts) were already recorded on the Appellant's balance sheet when the Minister used the net worth method to establish the Appellant's unreported income. I note, however, that the Appellant's net worth increased by \$2,364 in 1994 and \$4,255 in 1995, whereas the drawings in question were \$62,352 in 1994 and \$89,312 in 1995. So only a portion of the drawings can have been used for savings. Even though a portion of the drawings can be related to savings, the Appellant, on whom the burden of proof rests, must nevertheless prove that drawings were used for that purpose.

[43] In his written argument, counsel for the Appellant stated a number of other assumptions to show that these drawings, which the Minister entered as adjustments, were counted at least three times. It is my view that the Appellant could not discharge the burden that was on him on this point by making assumptions that he had been taxed three times without supporting those assumptions with adequate proof. Most of the Appellant's explanations¹² on certain amounts debited from account 26330 were vague and imprecise. One cannot discharge one's burden of proof by answering, "It's probably...", "That's no doubt an entry error", "I'd have to recheck my invoices", and "I would absolutely have to check the accounting at the time to see what was a subsidy by them."

[44] I would point out that the Minister deducted from these drawings entered as adjustments certain amounts for the repayment of certain debts of the Appellant. Lastly, I note that the Minister generously deducted an amount of \$20,000, which was indexed, from those drawings, and did so on a purely arbitrary basis.

[45] For these reasons, I conclude that the Minister rightly made those adjustments in computing the Appellant's net worth.

Drawings from Circuit M.H. Inc.

[46] The Minister established¹³ that certain expenses incurred by Circuit M.H. Inc. (that is \$266.86 in 1994, \$3,919 in 1995, \$23,163.75 in 1996 and \$34,999.87 in 1997) were expenditures made by that company on behalf of the Appellant, not

¹² See pages 109 to 124 in the transcript.

¹³ See the "Expenses paid by Circuit M.H. Inc." item in the adjustments of Annex D.

expenses incurred by Circuit M.H. Inc. for the purpose of earning income from its business. The Minister therefore added those expenses to the Appellant's living costs.¹⁴ In his testimony, Mr. Simard explained that those expenditures made by Circuit M.H. Inc. on behalf of the Appellant had been debited from account 24010 entitled, "Owed to Frank Hould" (Exhibit I-17). The underlying reasoning of the Minister's position on this point is as follows: if these expenses had not been made by Circuit M.H. Inc., the balance of the account appearing in the Appellant's balance sheet (Annex C) would have been that much higher. Mr. Simard cited the example of 1996, for which the balance sheet shows that Circuit M.H. Inc. owed the Appellant \$19,534 at December 31, 1996. Mr. Simard explained that, if the personal expenses had not been paid by Circuit M.H. Inc. on behalf of the Appellant in 1996 and debited from account 24010 entitled "Owed to Frank Hould" (Exhibit I-17), the balance of the account appearing on the Appellant's balance sheet would not have been \$19,534, but rather \$42,197 (\$19,534 + \$23,163). In short, it can be said that, had it not been for those expenses of \$23,163 made for the Appellant in 1996, there would have been an additional increase of \$23,163 in the Appellant's assets for that year.

[47] The Minister's reasoning on this point is logical in my view. However, in his testimony, Mr. Simard merely identified for 1994 the three expenditures¹⁵ (\$266.66) that were purportedly incurred by Circuit M.H. Inc. on behalf of the Appellant. I do not find that these expenditures were clearly made by Circuit M.H. Inc. on behalf of the Appellant, particularly since the Appellant provided no explanation concerning those expenditure.

[48] However, for 1995, 1996 and 1997, Mr. Simard did not identify the drawings from account 24010 entitled "Owed to Frank Hould" of Exhibit I-17, which constituted expenditures made by Circuit M.H. Inc. on behalf of the Appellant. Despite a thorough examination of account 24010, it was impossible for me to determine how the Minister had established that Circuit M.H. Inc. had incurred expenditures on behalf of the Appellant totalling \$3,969, \$23,163 and \$34,999 for 1995, 1996 and 1997 respectively. The evidence adduced by the Minister was simply insufficient and inadequate to convince me that Circuit M.H. Inc. had made such expenditures for the Appellant's benefit. In the instant case, the Minister had to at least identify those expenditures so that the Appellant could dispute the Minister's position. In my view, the Minister cannot expect a

¹⁴ See pages 185 to 188 and pages 213 to 228 of the transcript.

¹⁵ Entries 89, 144 and 153 of account 24010 entitled "Owed to Frank Hould" of Exhibit I-17.

favourable decision from a judge based on allegations so imprecise that the taxpayer is not even able to dispute them.

[49] I note in the "Adjustments" item in Annex D that the Minister deducted the following amounts from all the drawings:

	1996	1997
(i) Trans Canada Credit payments	\$2,610	\$3,522
(ii) Drawings (unvouchered)	\$20,685	\$21,016

[50] Since I cannot determine from Mr. Simard's testimony on the two deductions allowed by the Minister to what drawings items these two deductions are related, it is my view that it is not unreasonable to conclude that those deductions were not related to the "Drawings from Circuit M.H. Inc." item, but to all the other drawings entered by the Minister as adjustments.

Conclusion

[51] Having regard to my findings¹⁶ on the three drawings entered as adjustments by the Minister, the Appellant's living costs (that is to say total additions minus total deductions in the "Adjustments" item of Annex D) would be \$28,644 for 1994, \$62,924 for 1995, \$28,282 for 1996 and \$9,987 for 1997. The Appellant's disposable income was thus \$30,998 for 1994, \$73,179 for 1995, \$48,446 for 1996 and \$14,113 for 1997. The Appellant's unreported income was thus \$34,549 for 1994, \$65,762 for 1995, \$39,533 for 1996 and \$4,969 for 1997.

[52] I concluded in the last paragraph that the Appellant's living costs (total additions entered as adjustments minus total deductions entered as adjustments) was \$9,989 for 1997. I find that amount far too low in the circumstances. In my view, the living costs determined by the Appellant in Annex B for that year should be used, plus the sum of \$7,200,¹⁷ in establishing the Appellant's unreported income for that year. Having regard to the Appellant's admissions concerning the other adjustments made by the Minister, I am of the view that the Appellant's cost of living (total additions less total deductions in the "Adjustments" of Annex B) was \$30,693 for 1997. The Appellant's disposable income would thus be \$34,819 for 1997 and his unreported income for that year would be \$25,675.

¹⁶ See my analysis in paragraphs 26 to 50.

¹⁷ See my analysis in paragraph 24.

[53] For these reasons, I find that the Appellant's unreported income totalled \$34,549, \$65,762, \$39,533 and \$25,675 for 1994, 1995, 1996 and 1997 respectively.

Benefit Conferred by Gérard Prévost Inc.

[54] In his written argument, counsel for the Appellant addressed the alternative argument raised by counsel for the respondent in her written argument, that the amounts of \$62,697 in 1996 and \$39,969 in 1997 did not come from a benefit conferred by Gérard Prévost Inc. under subsection 246(1) of the *Act*, but rather that they should be taxed under section 3 and subsection 152(7) of the *Act*. Counsel for the Appellant contended that that argument should be rejected, specifically for the following reasons:

(i) the hearing ended on January 19, 2005, without the Respondent seeking to amend her pleadings and without raising any new arguments;

(ii) the Respondent cannot, in the circumstances, argue subsection 152(9) of the *Act*;

(iii) the Respondent must comply with the rules of natural justice and the rules of procedure for taxation cases.

[55] In my view, this is a false argument since the respondent does not have to identify the source of the Appellant's unreported income where that income is established by the net worth method.

[56] Furthermore, it seems clear to me, since subsection 152(9) was added, that the Minister is entitled to advance an alternative argument even after the normal reassessment period has expired, subject solely to paragraphs 152(9)(a) and (b). Consequently, it appears that subsection 152(9) allows the Minister, subject to the restrictions set out therein, to advance any alternative argument in support of the amount of the assessment, to the extent that he does not try to increase that amount. I note that, in the Reply to the Notice of Appeal, the respondent in any case relied on section 3 and subsections 9(1), 15(1), 152(4) and 152(7) of the *Act*. Were alternative arguments advanced by the Minister in the instant case?

[57] Paragraphs 152(9)(a) and (b) of the *Act* refer to the harm that the Appellant might suffer if the respondent were allowed to make alternative factual allegations many years after the fact.

[58] In the instant case, the respondent is not trying to consider different transactions from those used to make the reassessments. Nor is the respondent attempting to increase the amount of tax payable.

Penalties

[59] There remains the question of penalties for each of the years of the relevant period. The respondent contends that they should be maintained for those taxation years. They were assessed under subsection 163(2) of the *Act*, which reads as follows:

163(2) Every person who, knowingly, or under circumstances amounting to gross negligence, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a return, form, certificate, statement or answer (in this section referred to as a "return") filed or made in respect of a taxation year for the purposes of this Act, is liable to a penalty [...]

[60] Subsection 163(3) of the *Act* states that the burden of proof is on the Minister. It reads:

(3) Where, in an appeal under this Act, a penalty assessed by the Minister under this section or section 163.2 is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Minister.

[61] The onus was therefore on the Minister to establish the facts supporting the assessment of the penalties, that is, in the instant case, to prove that the taxpayer made a false statement or omission in a return of income and that that false statement or omission was made knowingly or under circumstances amounting to gross negligence. The Minister's burden is not to prove his case beyond a reasonable doubt, but simply on a balance of probabilities. Raising a reasonable doubt would thus not be sufficient to cancel the penalty.

[62] I wish to emphasize that the fact that there is a difference between the increase in the taxpayer's net worth and the amount of income reported for a year is not in itself sufficient proof in this regard. The Minister cannot discharge his burden of proof by merely arguing that the taxpayer was unable to disprove the net

worth assessments. In *Dowling v. The Queen*, [1996] T.C.J. No. 301, 93-934(IT)G, 96 DTC 1250, my colleague Lamarre J. explained her view on this point as follows at paragraph 102:

The Minister must present evidence to the effect that the taxpayer made a false statement or omission in filing the return. This evidence must amount to more than just showing that the net worth statement was not disproved. Once the Minister proves, on a balance of probabilities, that a false statement or omission was made in the return, evidence must be presented that this misrepresentation was made knowingly or under circumstances amounting to gross negligence. In *Venne, supra*, Justice Strayer defined gross negligence at 6256:

[...] "Gross negligence" must be taken to involve greater neglect than simply a failure to use reasonable care. It must involve a high degree of negligence tantamount to intentional acting, an indifference as to whether the law is complied with or not.

[...] The sub-section obviously does not seek to impose absolute liability but instead only authorizes penalties where there is a high degree of blameworthiness [sic] involving knowing or reckless misconduct [6258)].

[63] The Appellant signed his returns of income which were prepared by his accountant. The Appellant cannot clear himself by pleading ignorance of the errors made by his accountant in preparing the returns of income. The Appellant should have reviewed his returns before signing them. By failing to review them, he made a wilful omission. The Appellant appeared to me to be able to express himself clearly. I believe he was in a position to know, before signing his returns, whether the amounts reported were accurate. I note that the Appellant testified that he had been an employee of Gérard Prévost Inc. from 1995 to 1997 and that, in that capacity, he had received weekly remuneration of \$500 during the period. However, the Appellant reported no employment income from that corporation in his returns of income for any of those years. When cross-examined on this point, the Appellant was unable to explain this omission and simply referred us to his accountant, Ms. Émond, who, he said, was the only person who could explain the omission. Furthermore, in his returns of income for 1996 and 1997, when he was personally no longer operating the business, the Appellant reported business income for which he was unable to give any valid explanation whatever as to the nature or origin. It is thus difficult to reach any other conclusion than that the Appellant displayed a significant degree of wilful negligence in the filing of his returns of income. In my view, the Minister discharged the burden of proof on him in the instant case and thus was entitled to assess the penalty provided for in subsection 163(2) of the *Act* on the Appellant's unreported

income, which totalled \$34,549, \$65,762, \$39,533 and \$25,675 for 1994, 1995, 1996 and 1997 respectively.

[64] Having regard to the results obtained on both sides, I have come to the conclusion that the Minister is entitled to 80 percent of the costs.

Signed at Ottawa, Canada, this 28th day of February 2006.

"Paul Bédard"

Bédard J.

Translation certified true
on this 31st day of July 2006.

Julie Poirier, Translator

CITATION: 2006TCC23
COURT FILE NO.: 2003-1890(IT)G
STYLE OF CAUSE: François Hould and Her Majesty the Queen
PLACE OF HEARING: Sherbrooke, Quebec
DATE OF HEARING: January 19, 2005
REASONS FOR JUDGMENT BY: The Honourable Judge Paul Bédard
DATE OF JUDGMENT: February 28, 2006

APPEARANCES:

Counsel for the Appellant: Richard Généreux

Counsel for the Respondent: Julie David

COUNSEL OF RECORD:

For the Appellant:

Name: Richard Généreux

Firm: Généreux, Côté
Drummondville, Quebec

For the Respondent:

John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Ontario

ANNEX "A"

François Hould
 Audit
 Years 1994-1997

Determination of living costs

<u>Classes</u>	<u>Per year</u> \$
Automobile insurance	500.00
Home insurance	750.00
Cable television	420.00
Gifts	200.00
Heating	1,200.00
Cigarettes and spirits	1,040.00
Haircuts and grooming	100.00
Hydro	750.00
Maintenance and repairs – automobile	1,000.00
Maintenance and repairs – house	300.00
Maintenance and repairs – movables	200.00
Gasoline	1,000.00
Registrations	250.00
Books, newspapers and disks	130.00
Rent (see note 1)	0.00
Medication and toiletries	530.00
Food	5,000.00
Debt repayments (see Summary of adjustments)	0.00
Meals – recreation	540.00
Dental care	100.00
Outings and entertainment	1,040.00
Real property taxes	780.00
Telephone	480.00
Vacation	400.00
Clothing	<u>1,040.00</u>
	17,750.00
Less: Spousal contribution	<u>(7,200.00)</u>
Mr. Hould's living costs	<u>10,550.00</u>

Note 1: During these years, Mr. Hould had an arrangement with the owner of the property whereby he could live in the house in exchange for payment of property taxes, insurance and hydro.

Toyota Xtrac, 1987	-	-	-	-	\$3,210.00	\$3,210.00	-	-	-	-
Harley FXRP, 1989	-	-	-	\$6,000.00	-	-	-	-	-	-
Harley FXRS, 1991	-	-	-	-	\$9,000.00	\$9,000.00	\$9,000.00	\$9,000.00	\$9,000.00	-
GMC Sierra, 1992 (including Distribution)	-	-	-	-	-	-	\$12,000.00	\$12,000.00	-	-
Competition Chevrolet truck	-	-	-	-	-	-	-	-	\$1,200.00	\$1,200.00
Competition Jeep truck	-	-	-	-	-	-	-	-	\$500.00	\$500.00
TOTAL ASSETS	<u>\$25,613.76</u>	<u>\$25,613.76</u>	<u>\$32,829.78</u>	<u>\$38,829.78</u>	<u>\$46,969.95</u>	<u>\$46,969.95</u>	<u>\$92,832.33</u>	<u>\$92,832.33</u>	<u>\$101,669.65</u>	<u>\$92,669.65</u>

ANNEX "C"

François Hould

STATEMENT OF ASSETS AND LIABILITIES AS AT DECEMBER 31

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
<u>ASSETS</u>					
Personal assets					
<u>CASH</u>					
Cash on hand	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
<u>INVESTMENTS</u>					
Business equity Distribution FH e.	15,513.76	22,724.78	23,022.02		
Shares of Circuit M.H. Inc. (100%)			100.00	100.00	100.00
Shares of 9023-7256 Québec Inc. (50%)				50.00	50.00
Shareholder account of Circuit MH Inc.		5.00		19,534.02	31,016.39
Shareholder account of 9023-7256 Québec Inc.				23,044.83	25,626.00
Shareholder account of Gérard Prévost Inc.					5,000.00
<u>BANK ACCOUNTS</u>					
Caisse populaire Coaticook #28253				44.64	44.64
National Bank Coaticook #0354602			37.93	3.85	51.73
Caisse populaire Lennoxville (open February 1996) #10241				20.04	0.80
Caisse populaire Lennoxville ET1 #10241 (RRSP)				1,000.00	1,045.14
<u>CAPITAL PROPERTY</u>					
Lot #3328				16,434.95	16,434.95
Lot 17E, Range 11, Barford Township			1,500.00	1,500.00	1,500.00
<u>OTHER</u>					
Movables	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
Toyota Xtrac, 1987			3,210.00		
Harley FXRP, 1989					
Harley FXRS, 1991			9,000.00	9,000.00	9,000.00
GMC Sierra 1992 (F. Hould's cost)				12,000.00	
Competition Chevrolet truck					1,200.00
Competition Jeep truck					500.00
TOTAL ASSETS	<u>\$25,613.76</u>	<u>\$32,829.78</u>	<u>\$46,969.95</u>	<u>\$92,832.33</u>	<u>\$101,669.65</u>

Francois Hould

STATEMENT OF ASSETS AND LIABILITIES AS AT DECEMBER 31

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
<u>LIABILITIES</u>					
<u>Personal liabilities</u>					
<u>BANK LOANS</u>					
Caisse populaire Lennoxville PR1 #10241 (line of credit)				10,988.05	
Caisse populaire Lennoxville PR2 #10241 (refinancing of line of credit)					7,609.64
National Bank Coaticook (94 and 95 in balance sheet, personal agreement)				15,850.97	23,022.15
Citibank Visa			2,409.99	2,282.07	2,496.66
National Bank Mastercard	3,500.00	3,361.96	3,557.57	2,822.89	3,525.93
Personal loan (estimated)					
Loan Trans Canada		5,000.00	6,000.00	6,000.00	6,000.00
Loan Jean-Claude Hould	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
<u>OTHER LOANS</u>					
Owed to Circuit MH			279.00		
TOTAL LIABILITIES	<u>8,500.00</u>	<u>13,361.96</u>	<u>17,246.56</u>	<u>42,943.98</u>	<u>47,654.38</u>
NET WORTH AS AT DECEMBER 31	<u>17,113.76</u>	<u>19,467.82</u>	<u>29,723.39</u>	<u>49,888.35</u>	<u>54,015.27</u>
		<u>17,113.76</u>	<u>19,467.82</u>	<u>29,723.39</u>	<u>49,888.35</u>
INCREASE (REDUCTION) IN NET WORTH		<u>\$2,354.06</u>	<u>\$10,255.57</u>	<u>\$20,164.96</u>	<u>\$4,126.92</u>

ANNEX "D"

SUMMARY OF ADJUSTMENTS

François Hould

DETERMINATION OF ADDITIONAL INCOME AS AT DECEMBER 31

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>Ref.</u>
Closing net worth	\$17,113.76	\$19,467.82	\$29,723.39	\$49,888.35	\$54,015.27	
Opening net worth		17,113.76	19,467.82	29,723.39	49,888.35	
Increase (reduction) in net worth		<u>2,354.06</u>	<u>10,255.57</u>	<u>20,164.96</u>	<u>4,126.92</u>	
 <u>ADJUSTMENTS</u>						
<u>Add:</u>						
<u>Personal expenses</u>						
Expenses paid by Promotion FH		62,352.40	89,312.19			FT 4000
Expenses paid by Circuit MH Inc.		266.86	3,919.00	23,163.75	34,999.87	FT 4100
Amount received from Circuit MH not shown in shareholder's account				4,000.00		FT 4200
Amount received from Gérard Prévost Inc.					8,000.00	FT 1600
Withdrawals from Caisse populaire Lennoxville #10241				42,726.48	5,562.43	FT 4300
Withdrawals National Bank #0354602				60.00	12,647.35	FT 4400
Credit card withdrawals (Mastercard)		7.58	671.21	677.76	1,656.78	FT 4500
Credit card withdrawals (Visa)				183.15	1,360.00	FT 4500
Less loan repayment		(10,937.19)				FT 0150
						FT 0140
Less Trans Canada credit payments		(3,650.00)	(4,272.00)	(2,610.00)	(3,522.00)	FT 0150
						FT 0140
Less amount allowed (unvouchered)		(20,000.00)	(20,360.00)	(20,685.76)	(21,016.73)	FT 0150
						FT 0140
 <u>Interest paid on loans</u>						
Caisse populaire Lennoxville				879.19	844.18	FT 4600
National Bank Coaticook				2,012.98	2,023.65	FT 4600
National Bank Coaticook Insurance				221.98	100.90	FT 4600
 <u>Credit card interest and fees</u>						
Citibank Visa			80.47	420.97	443.47	FT 4700
National Bank Mastercard			639.94	638.24	601.35	FT 4700
 <u>Other personal expenses</u>						
Registration fees for vehicles acquired			1,708.73			FT 2200
Maintenance of racing vehicles					1,000.00	FT 0700-1
QPP			216.97	303.12,	338.64	T1
Federal tax paid		1,175.00		109.55	169.68	FT 4800
Provincial tax (included with Caisse populaire #10241)	-	-	-	-	-	
Total		<u>29,214.65</u>	<u>71,916.51</u>	<u>52,101.41</u>	<u>45,209.57</u>	

Deduct:

Federal income tax refund	129.15	325.00			FT 4800
Estimated provincial tax refund	129.00	325.00			FT 4800
GST rebate		251.50	208.62	223.18	FT 4900

Non-taxable portion of capital gain

Toyota Xtrac 87			447.50		FT 2200
Harley FXRP 89		250.00			FT 2200
Jeep CJ7 77	312.50				FT 2200

Total deductions	<u>570.65</u>	<u>1,151.50</u>	<u>656.12</u>	<u>223.18</u>	
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TOTAL DISPOSABLE INCOME	<u>30,998.06</u>	<u>81,020.58</u>	<u>71,610.25</u>	<u>49,113.31</u>	
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TOTAL REPORTED INCOME

François Hould	(3,551.68)	7,417.00	8,913.00	9,144.00	FT 8000
	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	
	<u>(3,551.68)</u>	<u>7,417.00</u>	<u>8,913.00</u>	<u>9,144.00</u>	

NET ADDITIONAL INCOME	<u>\$34,549.74</u>	<u>\$73,603.58</u>	<u>\$62,697.25</u>	<u>\$39,969.31</u>	
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