

Docket: 2008-1739(IT)I

BETWEEN:

DARREN WILKINS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on January 12, 2009, at Fredericton, New Brunswick

Before: The Honourable Justice Wyman W. Webb

Appearances:

Agent for the Appellant: Karen McLeod
Counsel for the Respondent: Toks C. Omisade

JUDGMENT

The appeal from the assessment made under the *Income Tax Act* for the Appellant's 2006 taxation year is dismissed, without costs.

Signed at Toronto, Ontario, this 29th day of January 2009.

“Wyman W. Webb”

Webb J.

Citation: 2009TCC61
Date: 20090129
Docket: 2008-1739(IT)I

BETWEEN:

DARREN WILKINS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Webb J.

[1] The issue in this appeal is whether the Appellant is entitled to a tax credit pursuant to section 118.62 of the *Income Tax Act* (the “Act”) in relation to interest paid on a line of credit provided by TD Canada Trust that was arranged to provide the Appellant with assistance while he was attending Confederation College in Thunder Bay, Ontario.

[2] The Appellant was represented at the hearing by his agent Karen McLeod. She stated that she had helped the Appellant arrange the line of credit at TD Canada Trust. She cosigned with the Appellant for the line of credit. The Appellant had also received a separate student loan that was made under the *Canada Student Loans Act* and he was allowed the tax credit in relation to the interest paid on this loan.

[3] Section 118.62 of the *Act* provides as follows:

118.62 For the purpose of computing an individual's tax payable under this Part for a taxation year, there may be deducted the amount determined by the formula

$A \times B$

where

A is the appropriate percentage for the year; and

B is the total of all amounts (other than any amount paid on account of or in satisfaction of a judgement) each of which is an amount of interest paid in the year (or in any of the five preceding taxation years that are after 1997, to the extent that it was not included in computing a deduction under this section for any other taxation year) by the individual or a person related to the individual on a loan made to, or other amount owing by, the individual under the Canada Student Loans Act, the Canada Student Financial Assistance Act or a law of a province governing the granting of financial assistance to students at the post-secondary school level.

[4] As Justice Little noted in *Renz v. The Queen*, [2003] 1 C.T.C. 2307, 2002 DTC 2014:

5 In order to qualify for a tax credit, section 118.62 specifies that the interest that is paid must relate to student loans made under the Canada Student Loans Act, the Canada Student Financial Assistance Act or a law of a Canadian Province governing the granting of financial assistance to students at the post-secondary school level. In my opinion the words of section 118.62 are clear and unambiguous on this issue and the Appellant does not come within the wording of the section. Furthermore, since the words contained in section 118.62 are clear it is not necessary to resort to any aids to construction in order to interpret the words of the Act.

[5] This section provides that the tax credit available for interest on student loans is limited to interest paid on those loans that are made under the *Canada Student Loans Act*, the *Canada Student Financial Assistance Act* or a law of a province governing the granting of financial assistance to students at the post-secondary school level (or interest paid on amounts owing under these statutes). Karen McLeod acknowledged that the TD Canada Trust line of credit that had been arranged was not a loan that had been made under any of the qualifying statutes listed in section 118.62 of the *Act* (and the amount owing in relation to this line of credit was not owing under any of these statutes). Her argument was that the purpose of the loan was the same as the loan that the Appellant had made under the *Canada Student Loans Act* - both were used to finance the education of the Appellant.

[6] It is not, however, simply a purpose test in section 118.62 of the *Act* as this section does not provide for a tax credit based only on the purpose of the loan, regardless of how the loan was obtained. The tax credit is only available if the loan was made to the Appellant under one of the statutes listed or described in that section

(or the amount is owing under one of those statutes). As the interest payable by the Appellant in relation to the TD Canada Trust line of credit was not interest paid in relation to any loan made to, or amount owing by, the Appellant under any of the statutes listed in section 118.62 of the *Act*, the interest paid does not qualify for a tax credit pursuant to this section of the *Act*.

[7] As a result the appeal is dismissed, without costs.

Signed at Toronto, Ontario, this 29th day of January 2009.

“Wyman W. Webb”

Webb J.

CITATION: 2009TCC61
COURT FILE NO.: 2008-1739(IT)I
STYLE OF CAUSE: DARREN WILKINS AND HER MAJESTY
THE QUEEN

PLACE OF HEARING: Fredericton, New Brunswick

DATE OF HEARING: January 12, 2009

REASONS FOR JUDGMENT BY: The Honourable Justice Wyman W. Webb

DATE OF JUDGMENT: January 29, 2009

APPEARANCES:

Agent for the Appellant: Karen McLeod
Counsel for the Respondent: Toks C. Omisade

COUNSEL OF RECORD:

For the Appellant:

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