

Docket: 2011-2800(IT)I

BETWEEN:

GORDON McINTOSH,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

CERTIFICATE OF COSTS

I CERTIFY that I have taxed the party and party costs of the Appellant in this proceeding under the authority of subsection 13(1) of the *Tax Court of Canada Rules (Informal Procedure)* and I ALLOW THE SUM OF \$146.25.

Signed at Toronto, Ontario, the 20th of June, 2012.

"B. G. Tanasychuk"

Taxing Officer

Docket: 2011-2801(IT)I

BETWEEN:

SUSAN McINTOSH,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

CERTIFICATE OF COSTS

I CERTIFY that I have taxed the party and party costs of the Appellant in this proceeding under the authority of subsection 13(1) of the *Tax Court of Canada Rules (Informal Procedure)* and I ALLOW THE SUM OF \$131.25.

Signed at Toronto, Ontario, the 20th day of June, 2012.

"B. G. Tanasychuk"

Taxing Officer

Citation: 2012 TCC 219
Date: 20120619
Dockets: 2011-2800(IT)I
2011-2801(IT)I

BETWEEN:

GORDON McINTOSH,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

AND BETWEEN:

SUSAN McINTOSH,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR TAXATION

[1] This taxation came on for hearing on April 26, 2012, by way of telephone conference call, following Judgments dated December 29, 2011, wherein appeals of assessments under the Income Tax were allowed with costs, if any. Mr. McIntosh represented himself and Susan McIntosh. The Respondent was represented by Ms. Paige Atkinson.

[2] Each Appellant filed a Bill of Costs which included a claim of \$819.00 for accounting fees. Mr. McIntosh's Bill of Costs also included a claim for parking in the amount of \$15.00, which amount is not in dispute. In addition, the Appellants submitted a letter dated April 16, 2012, setting out their position regarding the Bills of Costs.

[3] Mr. McIntosh submitted that, after the appeals to the Tax Court of Canada were filed, an accountant was consulted to review the notices of re-assessment. Mr. McIntosh further stated that meetings were held with the accountant on a number of occasions and the accountant had discussions with counsel for the Respondent.

[4] Mr. McIntosh further submitted that the re-assessments under appeal impacted each Appellant differently and that the accountant did work that was unique to each of them. He further stated that separate invoices were issued for the work done for each Appellant.

[5] In summary, Mr. McIntosh submitted that costs were awarded to two separate Appellants and that they were each entitled to full reimbursement for accounting fees.

[6] In response to Mr. McIntosh's submissions, Mr. Atkinson stated that when appeals are heard at the same time on common evidence, only one award of costs for the two appeals is allowable.

[7] Ms. Atkinson further submitted that it was well established law that the Appellants were only entitled to recover \$250.00 on account of preparation for hearing by their accountant, plus \$15.00 for parking.

DECISION:

[8] In addition to the oral submissions of the parties, I have also considered the letter from the Appellants dated April 16, 2012. That letter stated that the amount claimed for accounting fees fell under subsection 11.2(1) of the Tax Court of Canada Rules, which states:

“Such other disbursements may be allowed as were essential for the conduct of the appeal if it is established that the disbursements were made or that the party is liable for them.”

The issue to be decided is whether the Appellants are entitled to recover the amounts paid to their account as a disbursement under this subsection.

[9] The invoice attached to each Bill of Costs was from Anthony Cheng Professional Corporation, Chartered Account and contained the identical description of work performed, as follows:

To telephone conversations and discussions with management of the company with respect to the appeal to tax court for personal income tax returns audit for the period from January 1, 2007 to December 31, 2008.

To telephone conversations and discussions with Paige Atkinson, Counsel for Justice Canada with respect to the audit and the tax court appeal and provide documents accordingly.

To sundry services rendered in conjunction with the above.

MY FEE: \$780.00
G.S.T.: \$ 39.00

BALANCE DUE: \$819.00

[10] The description of the work covered by the two invoices represents work done by the Appellants’ accountant in preparation for hearing. As a result, the amounts to be allowed are determined by Section 11.1, as follows:

"Unless otherwise directed by the Court, where an appellant is represented or assisted by an advisor other than counsel, disbursements in respect of services referred to in section 11 may be allowed on the taxation of party and party costs in an amount not to exceed one half of the amounts listed in section 11."

[11] The maximum amount that may be allowed for the services of counsel for preparation for hearing in Section 11 is \$250.00. As the Appellants were not represented by counsel, they are only entitled to each recover \$125.00 (plus \$6.25 for HST) on account of the work done by their accountant in preparing for hearing.

[12] I appreciate that the amounts I have allowed are considerably less than what the Appellants were seeking to recover, but I am bound by the Rules of the Court. Fees paid to an accountant for preparation for hearing cannot be re-characterized as a disbursement and allowed under Section 11.2(1).

[13] The Bills of Costs of the Appellants are taxed and the following amounts are allowed:

Gordon McIntosh - \$146.25 (Includes \$15.00 for parking)
Susan McIntosh - \$131.25

Signed at Toronto, Canada, this 20th day of June, 2012.

"B. G. Tanasychuk"

Taxing Officer