Docket: 2010-3024(IT)G

BETWEEN:

ANDRÉ LENNEVILLE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on common evidence with the appeal of Marcelle Rheault (2010-3025(IT)G) on September 26, 2012, at Shawinigan, Quebec.

Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	François Daigle
Counsel for the Respondent:	Anne-Marie Desgens

JUDGMENT

The assessment made pursuant to the *Income Tax Act* for the 2004 taxation year is vacated and the penalty is cancelled. The penalties imposed pursuant to subsection 163(2) of the *Income Tax Act* for the 2005 and 2006 taxation years are also cancelled.

The assessments for the 2005 and 2006 taxation years are amended and the file shall be referred back for reassessment on the basis that the expenses related to the cost of living are reduced by $3,000 for each of those years and that the cost of

one of the fishing licences, put at $20,000 in the net worth calculation, is rather $10,000. In all other regards, these assessments remain unchanged.

Signed at Montreal, Quebec, this 14th day of May 2013.

"Alain Tardif"

Tardif J.

Translation certified true
on this 29th day of July 2013.

Erich Klein, Revisor

Docket: 2010-3025(IT)G

BETWEEN:

MARCELLE RHEAULT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on common evidence with the appeal of André Lenneville (2010-3024(IT)G) on September 26, 2012, at Shawinigan, Quebec.

Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	François Daigle
Counsel for the Respondent:	Anne-Marie Desgens

JUDGMENT

The assessment made pursuant to the *Income Tax Act* for the 2004 taxation year is vacated and the penalty is cancelled. The penalties imposed pursuant to subsection 163(2) of the *Income Tax Act* for the 2005 and 2006 taxation years are also cancelled.

The assessments for the 2005 and 2006 taxation years are amended and the file will be referred back for reassessment on the basis that the cost of living expenses are reduced by $3,000 for each of those years and that the cost of one of

the fishing licences, put at $20,000 in the net worth calculation, is rather $10,000. In all other regards, these assessments remain unchanged.

Signed at Montreal, Quebec, this 14th day of May 2013.

"Alain Tardif"

Tardif J.

Translation certified true
on this 29th day of July 2013.

Erich Klein, Revisor

Citation: 2013 TCC 56
Date: 20130514
Docket: 2010-3024(IT)G

BETWEEN:

ANDRÉ LENNEVILLE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

AND:

Docket: 2010-3025(IT)G

MARCELLE RHEAULT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR JUDGMENT

Tardif J.

[1] These are two appeals from assessments made using the net worth method. The parties agreed to proceed with both on common evidence.

[2] The appellants are spouses and operate together a business whose activities are fishing and the sale of their catches.

[3] The appellants sell on site part of their catches, mainly yellow perch and walleye. Other species are sold to businesses in Montreal. They also buy some fish that they process on site. The business is the appellants' sole income source.

[4] At the start of the hearing, the parties made statements whose effect was to amend the assessments to the appellants' advantage. To avoid any ambiguity, I asked the parties to submit the agreement they had reached. A few months have now passed and it seems the parties are unable to act on the Court's request.

[5] Despite many reminders from the Registry to provide a copy of the agreement, the parties never did so. As if that was not enough, counsel informed the Court that they were no longer in agreement and were therefore leaving it to the Court to draw the appropriate conclusions from the available evidence; all this caused very long delays.

[6] The appellants questioned the auditor, Dany Giroux, at length about the relevance of the net worth method in making the assessments.

[7] They questioned the relevance of this method because all the accounting documents and records were available and they submitted them with the clearly expressed intention of cooperating.

[8] The auditor admitted, moreover, that he had received the ledger and documents the appellants mentioned. He also confirmed that they had cooperated.

[9] The auditor justified using the net worth method by the fact that the appellants had not put in place a reliable internal control mechanism, particularly with regard to petty cash. Moreover, most of the over-the-counter sales were cash transactions, and these represented around 10% of the business's income. The auditor also noted that there were discrepancies in the deposits. He explained in great detail the work that led to the assessments made using the net worth method.

[10] The cross-examination of the auditor did not reveal any anomaly, irregularity or abuse whatsoever in the analysis of the data considered in making the assessments. Quite the contrary, the evidence showed that the auditor's work was beyond criticism, and the additions to assets were in no way arbitrary. Moreover, the appellants admitted that the accounting figures used to establish net worth were accurate.

[11] The appellants both testified. Simply and spontaneously, they explained all the basic aspects of the family business they operated through their partnership.

[12] The appellant André Lenneville described the main activity of the business, which was commercial fishing for a number of species of fish using a 24-foot boat with a 60-HP motor.

[13] All the equipment used for fishing and for processing fish was such as is found in a small-scale fishing operation. The catches were brought back to the place of business and processed in an approximately 800-square-foot building in which there were refrigerators and freezers. The building was also equipped to smoke fish, in particular sturgeon.

[14] Ninety percent of the production was sold and delivered to businesses in the Montreal area and 10%, mainly walleye and yellow perch, was sold over the counter at the appellants' place of business. Clients were locals and some were restaurateurs. Generally, these clients paid in cash.

[15] Mr. Lenneville also explained that fish stocks were decreasing year after year and that their business was subject to more and more restrictions because of resource protection measures and constantly decreasing stocks.

[16] To achieve acceptable catch levels, fishers, including the appellants, had to acquire new licences held by other fishers. The evidence shows that the appellants had in fact purchased the licences of two other fishers.

[17] Indeed, this tax dispute can be explained, in very large part, by the acquisition of these two licences, which led to a significant increase in the value of the appellants' assets.

[18] The appellant Marcelle Rheault also testified; she filled in the gaps in her spouse's testimony, more specifically with regard to the over-the-counter sales. She stated that those sales were generally cash transactions, except in the case of the restaurateurs, who paid by cheque.

[19] Sales were recorded on a cash register tape and the cash was deposited periodically in one of four bank accounts.

[20] Every month, invoices, accounts, statements and the cash register tapes were given to the person responsible for doing the accounting, keeping the various records up to date, filling in the GST and QST reports, and claiming inputs, since the business was a registrant.

[21] Marcelle Rheault explained that certain clients did not pay immediately, which left her husband and her financially vulnerable and required them to ask for advances on their credit card in order to meet their financial obligations.

[22] The appellants are credible individuals who work extremely hard to make a living. In good faith, they manage their affairs by relying on their rather limited knowledge of accounting and taxation; they depended on their accountant, a woman who did not testify.

[23] The assessments, which covered the 2004, 2005 and 2006 taxation years, and are being appealed, impose penalties under subsection 163(2) of the *Income Tax Act* (the ITA).

[24] The appellants argued that the respondent could not assess them for 2004 because that year was statute-barred pursuant to subsection 152(4).

[25] The respondent may make an assessment or reassessment after the normal reassessment period provided that she shows the Court that the taxpayer or taxpayers in question were negligent. The burden of proof in such a case is on the respondent.

[26] The appeals also concern the penalties imposed pursuant to subsection 163(2). There as well, the case law clearly defines the parameters regarding the burden of proof. In fact, I raised this very issue immediately prior to the respondent's argument.

[27] In response, counsel for the respondent simply indicated that the discrepancies between reported income and unreported income were such that no more is required in order for the Court to find that the respondent has met her burden of proof.

[28] Is the mere existence of significant discrepancies between reported income and net worth sufficient in itself to allow an assessment to be made for a taxation year that is otherwise statute-barred under subsection 152(4) or to permit gross negligence penalties to be imposed in an assessment made using the net worth method?

[29] I do not believe that mere proof of an increase, even a substantial one, in the appellants' net worth is sufficient for the Court to find that the respondent has met her burden of proof, particularly since the appellants provided a plausible explanation in the regard. Here there is no gross negligence or a misrepresentation attributable to neglect, carelessness or wilful default that would justify an assessment for a statute-barred year, nor is there negligence amounting to gross negligence that would justify the imposition of penalties.

Statutory provisions

[30] Subsection 152(4) of the ITA sets out the power of the Minister of National Revenue (the Minister) to make an assessment or reassessment:

> 152(4) The Minister may at any time make an assessment, reassessment or additional assessment of tax for a taxation year, interest or penalties, if any, payable under this Part by a taxpayer or notify in writing any person by whom a return of income for a taxation year has been filed that no tax is payable for the year, except that an assessment, reassessment or additional assessment may be made after the taxpayer's normal reassessment period in respect of the year only if
>
> (*a*) the taxpayer or person filing the return
>
> (i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act . . .

[31] Subsections 163(2) and 163(3) of the ITA provide, in the first place, for the imposition of a penalty for a false statement amounting to gross negligence, and they provide, in the second place, that the respondent bears the burden of proof:

> 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 of the greater of $100 and 50% of the total of . . .
>
> 163(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.
>
> [Emphasis added.]

Analysis

[32] In *Canada v. Bisson*, [1972] F.C. 719, the Federal Court considered whether the Minister could make a reassessment after the normal statutory reassessment period where the taxpayer, in good faith, made a misrepresentation that did not involve any negligence by the taxpayer.

[33] In that case, the taxpayer, without any bad faith, failed to include in his income payments made by a company, of which he was the majority shareholder, to one of his creditors.

[34] The Court, after determining that these payments constituted a shareholder benefit, concluded that the term "misrepresentation" does not apply in the case of a taxpayer who, through no negligence on his part, commits an error in declaring his income. Since "the error committed by respondent is one which a normally wise and

cautious taxpayer could have committed" (page 730), Pratte J. did not allow the Minister to make a reassessment for the statute-barred years in question. The gross negligence penalties were also cancelled.

[35] Judge Lamarre, in *Dowling* v. *Canada*, [1996] T.C.J. No. 301 (QL), undertook a detailed analysis of the burden of proof the Minister must meet in order for an assessment to be made for a statute-barred year where a net worth calculation forms the basis of the assessment. Her analysis is worth quoting:

> 76 According to these provisions, the Minister may assess beyond the normal limitation period if the taxpayer has made a misrepresentation that is attributable to neglect, carelessness, or wilful default. The Minister has the onus of proving this misrepresentation; however, once the Minister establishes a right to reassess after the normal period, the burden of proof shifts to the taxpayer to show that an amount should not be included in his income for the purposes of making an assessment after that period because the failure did not result from any misrepresentation that is attributable to negligence, carelessness, or wilful default.
>
> 77 The Minister has the initial onus of proving that a taxpayer made a misrepresentation in filing the tax return. It is insufficient for the Minister to refer to a net worth statement showing discrepancies between available income and reported income. The Minister must prove that this additional income was from a source that should have been included in the taxpayer's return. The onus on the Minister will be greater if the taxpayer presents plausible explanations showing a non-taxable source of this additional income.
>
> 78 The Minister's burden of proof was considered in J. Raymond Poulin v. M.N.R., 87 D.T.C. 113 (T.C.C.). Judge Taylor stated at 116:
>
> > ...In order for the Minister to assess these [statute-barred] years, as I understand the case law in this set of circumstances..., that requires the Minister to substantiate that there is at least one item for each taxation year "statute barred" which falls into the category of "...any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act..."
> >
> > ...it is not the "neglect, carelessness or wilful default" which warrants the re-opening of a taxation year under subsection 152(4), it is the misrepresentation which arises therefrom, "in filing the return or in supplying any information under the Act".
>
> 79 In that case, although the evidence showed that the taxpayer's company had misrepresented its income, there was no evidence that the taxpayer knew that he was under-reporting his own income. For this reason, the years in question were statute-barred.

. . .

81 In Farm Business Consultants Inc. v. The Queen, Judge Bowman set out two questions to be asked in determining whether an assessment is statute-barred, namely:

> 1. What misrepresentation is the appellant alleged to have made?
> 2. To what was the misrepresentation attributable?

. . .

92 In Lucien Venne v. The Queen, 84 D.T.C. 6247 at 6251, Strayer J. stated the following on the Minister's right to proceed with a reassessment after the normal period:

> I am satisfied that it is sufficient for the Minister, in order to invoke the power under sub-paragraph 152(4)(a)(i) of the Act to show that, with respect to any one or more aspects of his income tax return for a given year, a taxpayer has been negligent. Such negligence is established if it is shown that the taxpayer has not exercised reasonable care. This is surely what the word [sic] "misrepresentation that is attributable to neglect" must mean, particularly when combined with other grounds such as "carelessness" or "wilful default" which refer to a higher degree of negligence or to intentional misconduct. Unless these words are superfluous in the section, which I am not able to assume, the term "neglect" involves a lesser standard of deficiency akin to that used in other fields of law such as the law of tort.

[36] After finding that, in that case, the appellant had indeed shown neglect, Judge Lamarre addressed the issue of the burden of proof the Minister must meet in order to impose gross negligence penalties:

99 Since the Minister has the burden of establishing the facts justifying the imposition of penalties, the Minister must prove the following:

> 1. that the taxpayer made a false statement or omission in a return; and
> 2. that this false statement or omission was made knowingly or under circumstances amounting to gross negligence.

100 The Minister must prove that the taxpayer made a false statement or omission in filing its return. The fact that there is a discrepancy between the taxpayer's increase in net worth and the amount of income reported for a year will not be sufficient evidence of this. In Richard Boileau v. M.N.R., 89 D.T.C. 247, Judge Lamarre Proulx stated at 250:

> Indeed, the Appellant was unable to contradict the basic elements of the net worth assessments. However, in my view, this is not sufficient for discharging the burden of proof which lies on the Minister. To decide otherwise would be to remove any purpose to subsection 163(3) by reverting the Minister's burden of proof back onto the Appellant.

101 Since the Minister in that case relied only on the fact that the taxpayer could not reverse the net worth assessments, it was held that the burden of proof had not been adequately discharged; the penalties were not maintained.

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)].

. . .

105 In Farm Business Consultants Inc., supra, the taxpayer had claimed $86,000 paid for goodwill as management fees. In considering whether penalties should be imposed, Judge Bowman stated at 205-06:

> ...where a penalty is imposed under subsection 163(2) although a civil standard of proof is required, if a taxpayer's conduct is consistent with two viable and reasonable hypotheses, one justifying the penalty and one not, the benefit of the doubt must be given to the taxpayer and the penalty must be deleted. I think that in this case the required degree of probability has been established by the respondent, and that no hypothesis that is inconsistent with that advanced by the respondent is sustainable on the basis of the evidence adduced.

106 In that case, Judge Bowman held that the taxpayer had known that it was misrepresenting the payments as management fees or else was reckless as to the legal efficacy of the arrangement.

. . .

> 112 As stated earlier, the respondent proved on a balance of probabilities that the taxpayer misrepresented his income in his tax returns. The issue then is whether this omission was made knowingly or under circumstances amounting to gross negligence. According to Venne, supra, penalties should only be authorized where there is a high degree of blameworthiness, and in light of the Farm Business Consultants decision, supra, the benefit of the doubt should be given to the taxpayer where his conduct is consistent with two viable and reasonable hypotheses, one justifying the penalty and one not.

[37] Judge Lamarre went on to find that there was no gross negligence in that case and consequently cancelled the penalties.

[38] Many subsequent decisions adopt this same view in holding that significant discrepancies between income reported and net worth are not sufficient in themselves to allow an assessment for a year that would otherwise be statute-barred or to permit the assessment of gross negligence penalties. (See, for example, *Boucher v. Canada*, 2004 FCA 46, [2004] F.C.J. No. 169 (QL), at paragraph 5, application for leave to appeal refused [2004] C.S.C.R. No. 250 (QL); *Wajsfeld v. Canada*, 2005 TCC 351, [2005] T.C.J. No. 347 (QL), at paragraphs 56 to 63; *Seto v. The Queen*, 2007 TCC 489, 2007 DTC 1647, at paragraphs 29 and 30; *Continental Steel Ltd. v. Canada*, [1999] T.C.J. No. 802 (QL), at paragraph 89.)

[39] The weight of evidence establishes that the auditor did serious work that was completely beyond criticism and wholly in accordance with good practice, and that applies as well to his decision to use the net worth method.

[40] There is no evidence to support a conclusion that the Minister's actions were arbitrary, disproportionate or unreasonable. Quite the contrary, the notices of assessment were based on reliable, even indisputable, information (the purchase of two fishing licences) that was confirmed by the appellants themselves through the corrections made at the beginning of the hearing.

[41] There was an adjustment to assets that was based on solid, indeed indisputable, facts that were not challenged and from which it can be concluded that there was income that was not reported, not through bad faith but essentially through ignorance.

[42] Often, in assessments made using the net worth method, the respondent must make a rather arbitrary determination of certain elements that contributed to the increase in assets; I refer in particular to cost of living expenses. In the present case, the parties have agreed on this component.

[43] The key elements in the increase in the appellants' financial assets are the two fishing licences that were acquired. The value of these licences was established in a reliable manner and was corrected after the relevant documents were obtained. The book value of one of these licences was determined to be $20,000 whereas the price paid for it was $10,000. The respondent undertook to make the necessary corrections.

[44] Being regularly short of money and living frugally do not necessarily signify low income. If income is used to acquire capital assets, to purchase various goods, to make RRSP contributions, etc., such income is no longer available but it is still an enrichment that is added to the balance sheet or to year-end assets. These amounts must be added to the income that has to be reported.

[45] The appellants did not in any way challenge the value added to their assets except to submit that the purchase of the licences should have been considered a current expense incurred for the purpose of earning income. Actually, though, it was a capital expense.

[46] The evidence submitted by the appellants is far from justifying vacating the assessments for the 2005 and 2006 taxation years. The Court understands the appellants' explanations, but they have absolutely nothing to do with the elements upon which the assessments made for the 2005 and 2006 taxation years were based.

[47] Moreover, the appellants did not present any evidence to challenge the validity of the assessments, aside from insisting that the auditor had no grounds for using the net worth method. They no doubt believed that the unjustified use of the net worth method should be sanctioned by the cancellation of the assessment or assessments made using this method. As for the amounts added to their income, not only did they not raise any objection, but they confirmed the accuracy of the amounts in question.

[48] As a result, I find that there is a complete lack of evidence bringing into question the validity of the assessments for the 2005 and 2006 taxation years, which will nevertheless have to be amended to take into account the corrections made at the beginning of the hearing, namely: the cost of living is to be reduced by $3,000 for each of the years in question and the cost of the fishing licence, initially put at $20,000, must be corrected to $10,000.

Statute-barred period, 2004 taxation year

[49] The appeal concerns the 2004, 2005 and 2006 taxation years. The 2004 taxation year being statute-barred, the onus was on the respondent to prove the

appellants' neglect and carelessness, failing which the Court would be obliged to vacate the assessment for that year.

[50] Did the respondent meet her burden of proof? The respondent did not submit any evidence to that end during the hearing. At the beginning of the respondent's argument, I was particularly interested in this issue and that of the penalties added to the assessments for each of the years at issue. The respondent's only response and observation was to state that the discrepancy between reported income and assessed income was in itself sufficient to meet her burden of proof.

[51] It is agreed that the burden of proof to be met in order to make an assessment beyond the period prescribed is less stringent than that which must be discharged in order to impose a penalty. In the latter case, the Crown must show, on a balance of probabilities, that there was wilful default, negligence or wilful blindness amounting to gross negligence.

[52] The Crown argued that the discrepancies observed between the reported income and that calculated using the net worth method were so significant as to constitute in themselves a sufficient basis for finding that the Crown had met both burdens of proof. This could have been so in a case where the facts showed that there was clear gross negligence, that false or misleading statements were made, or that there was a complete lack of any plausible explanation provided by the appellants.

[53] In the present case, the appellants testified simply and answered all questions without any attempt to evade a single one. They explained how they operated their business. They did not challenge the data used by the auditor, who admitted that he had received the appellants' cooperation. The appellants gave him all the documentation they had regarding the taxation years in question. They allowed their accountant to collaborate with the auditor and they signed all the required authorizations to allow a thorough audit.

[54] In fact, the appellants' only complaint regarding the audit was that, under the circumstances, resorting to the net worth method was not justified. They contended that they had properly met their obligations by keeping reliable and adequate accounting records that allowed a conventional or normal audit to be conducted.

[55] The auditor, for his part, indicated that he had noted certain shortcomings that were attributable to the fact that over-the-counter sales were mainly cash transactions. He also mentioned certain irregular activities in the appellants' various bank accounts and a significant increase in the appellants' assets that was not consistent with the reported income.

[56] The testimony of the auditor and that of the appellants can easily be reconciled. Indeed, it seems that the appellants were paying for the fishing licences from their own income. However, the licences were acquisitions that resulted in an increase in their assets. Counsel for the appellants maintained that the licences were merely an expense incurred for the purpose of earning income and had a neutral effect on the appellants' assets. In other words, the appellants were always firmly convinced that they were not enriching themselves but were essentially repaying their debts according to the income generated by the business.

[57] In support of their appeals, the appellants essentially argued that there was no reason to use the net worth method, and therefore the assessments should simply be vacated.

[58] Recourse to the net worth method seems fully justified to me in a situation where the documents provided and the information submitted do not allow the auditor to calculate the income and expenditures in such a way as to explain the increase in the value of the assets.

[59] In the present case, the appellants had some form of accounting system. They cooperated and testified simply, clearly and credibly. The evidence did not reveal anything that would establish gross negligence or bad faith. It did, however, show beyond any doubt that, in relation to the reported income, the amount of income not reported was significant. However, the explanation provided regarding the treatment of the expenditures required for the purchase of the licences is neither far-fetched nor unreasonable.

[60] It is not sufficient to have put in place an accounting system and to have accounting records to avoid being the subject of a net worth review during a tax audit. There must be correspondence between the documentary evidence and the taxpayer's assets and liabilities.

[61] In the present case, the auditor noted the existence of discrepancies in the deposits, of a number of cash transactions, and lastly, of significant assets that the reported income did not justify. It is not sufficient to have in one's possession accounting records and all the related documents in order to avoid a reassessment. The accounting must be complete, but also – and this is fundamental – reliable, credible and accurate with regard to the increase in the assets of the person or persons concerned.

[62] None of the arguments with respect to vacating the assessments simply on the ground that recourse to the net worth method was inappropriate or unjustified is admissible. The facts revealed by the evidence show that use of the net worth method was fully justified, although the good faith and credibility of the appellants is not in question.

[63] As for the penalty, the respondent did not meet her burden of proof, and therefore, the auditor's testimony was of no help to the respondent. In fact, the auditor acknowledged that he had had the appellants' cooperation in the performance of his work. He drew the necessary conclusions regarding the nature of the property acquired, namely the two fishing licences.

[64] For all these reasons, the appellants' appeals are allowed in part and the two files will be referred back to the Canada Revenue Agency for reassessment with respect to the 2005 and 2006 taxation years on the basis that the expenses attributed to the appellants' cost of living have been reduced by $3,000 for each of those years and that the amount paid for one of the fishing licences was not $20,000 but rather $10,000.

[65] The penalties relating to the 2005 and 2006 assessments are cancelled. In all other regards, these assessments remain unchanged. As for 2004, the assessment is vacated and the related penalty cancelled.

[66] There will be no award of costs.

Signed at Montreal, Quebec, this 14th day of May 2013.

"Alain Tardif"

Tardif J.

Translation certified true
on this 29th day of July 2013.

Erich Klein, Revisor

CITATION:	2013 TCC 56
COURT FILE NOS.:	2010-3024(IT)G and 2010-3025(IT)G
STYLE OF CAUSE:	ANDRÉ LENNEVILLE and MARCELLE RHEAULT v. HER MAJESTY THE QUEEN
PLACE OF HEARING:	Shawinigan, Quebec
DATE OF HEARING:	September 26, 2012
REASONS FOR JUDGMENT BY:	The Honourable Justice Alain Tardif
DATE OF JUDGMENT:	May 14, 2013

APPEARANCES:

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Counsel for the respondent:	Anne-Marie Desgens

COUNSEL OF RECORD:

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