Docket: 2018-1536(IT)G

BETWEEN:

THE ESTATE OF THE LATE GEORGES ROBILLARD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on common evidence with the appeal of
the estate of the late Georges Robillard (2018-1534(IT)G),
on November 29 and 30, 2021, at Montreal, Quebec

Before: The Honourable Justice Robert J. Hogan

Appearances:

Counsel for the Appellant:	Martin Delisle
	Lisa-Marie Gauthier
Counsel for the respondent:	Anne Poirier

AMENDED JUDGMENT

For the reasons that follow, the appeal against the assessment for the appellant's 2013 taxation year is allowed and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment to allow the appellant to deduct $759,000 in the computation of its income.

The parties will have until February 14, 2022, to reach an agreement on costs, failing which they are directed to file their written submissions on costs no later than February 15, 2022. The submissions are not to exceed 10 pages.

Signed at Ottawa, Canada, this 27th day of January 2022.

"Robert J. Hogan"

Hogan J.

Translation certified true
on this 9th day of February 2022.

François Brunet, Revisor

Citation: 2022 TCC 13
Date: 20220127
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BETWEEN:

THE ESTATE OF THE LATE GEORGES ROBILLARD,

Appellant,

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HER MAJESTY THE QUEEN,

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AMENDED REASONS FOR JUDGMENT

Hogan J.

I. Introduction

[1] On January 30, 2018, the Minister of National Revenue (the Minister) confirmed the assessment issued on June 1, 2016, with respect to the estate of Georges Robillard (the Estate) for its 2013 taxation year.

[2] The Minister determined that subsection 84(2) of the *Income Tax Act* (the Act) applied to the indirect distribution of the assets of the corporation Gestion Georges Robillard Inc. (Gesco) to the legatees of the Estate. According to the Minister, pursuant to this provision, the Estate received a deemed dividend of $1,567,016.

[3] The parties have asked me to review all the transactions described below to determine the tax consequences of the distribution of Gesco's assets. According to the respondent, in the present case, the distribution must be characterized as a distribution or attribution of Gesco's funds or property to the Estate at the time of Gesco winding-up, ceasing to carry on business or reorganizing. This characterization engages subsection 84(2) of the Act. The appellant takes the opposite position.

[4] The parties have also asked me to decide whether, in the light of subsection 84(2), the Estate could claim the amounts paid to the legatees in its 2013 income tax return, pursuant to subsection 104(6) of the Act.

II. The facts

[5] Mr. Georges Robillard (Mr. Robillard) died on June 18, 2012. Hence, the Estate was opened.

[6] At the time of his death, Mr. Robillard owned all the issued and outstanding shares of Gesco, a private corporation resident in Canada. This corporation was a holding company that held Mr. Robillard's investments.

[7] Mr. Robillard had bequeathed Gesco's shares in three equal parts to his universal legatees, Jean, Guy and Monique Robillard.

[8] By reason of his death, Mr. Robillard is deemed to have disposed of Gesco's shares at their fair market value (the FMV). The deemed disposition led to a capital gain of $1,912,467, which was specified in Mr. Robillard's final return.

[9] To avoid the double taxation resulting from the deemed disposition and the distribution of Gesco's assets to the Estate, the liquidators devised a tax plan commonly known as a "post-mortem pipeline". The Estate made the series of transactions described below based on the advice of a tax expert. The transactions at issue were mainly intended to use the increased adjusted cost base (the ACB) from the deemed disposition of Gesco's shares in order to distribute Gesco's assets in the form of capital.

[10] In short, the Estate made the following transactions:

1. On November 7, 2012, a new corporation, 9272-0424 Québec Inc. (9272), was created.

2. On January 17, 2013, the Estate transferred the Gesco shares to 9272 in exchange for a note with par value equal to the ACB and to the FMV of Gesco's shares.

3. On January 18, 2013, Gesco was wound up into 9272.

4. The note issued by 9272 was paid off by February 8, 2013.

5. The liquidators, when producing the Estate's income tax return for its tax year ending on April 6, 2013, claimed no capital gains or losses from the disposition of Gesco's shares to 9272.

[11] Before the aforementioned transactions, the Estate had made two reorganizations of Gesco's capital. Gesco had first redeemed 1,415.64 Class D shares held by the Estate for $141,564 so that the Estate could take advantage of its capital dividend account. Next, Gesco redeemed 2,104.20 Class D shares held by the Estate for $210,420 so that Gesco could take advantage of the balance of its refundable dividend tax on hand.

[12] These reorganizations of capital gave rise to the following capital stock:

Class	**Paid-up capital**	**ACB**	**FMV**
100 Class A shares	$100	$66	$19
100 Class B shares	$59	$1	$100
15,670.16 Class D shares	$1	$1,567,016	$1,567,016

[13] The Estate then sold all its Gesco shares to 9272 in exchange for a note, repayable on demand, of $1,587,866.

[14] Before the hearing, the appellant filed a modified Notice of Appeal in order to include the distributions made by the Estate to the legatees during the first taxation year. These distributions had an amount of $759,000.

[15] The respondent did not concede the existence of these distributions, but the appellant produced evidence from the bank for Guy Robillard. Jean and Guy Robillard also testified at the hearing, and, with the respondent's consent, Monique Robillard filed an affidavit that confirms the distributions.

[16] The appellant's two witnesses were credible and reliable. I am satisfied that the appellant has met its burden of proof in this matter.

III. Analysis

A. Application of subsection 84(2) of the Act.

[17] Subsection 84(2) of the Act, the provision that is at the heart of the present litigation, is worded as follows:

> **84(2) Distribution on winding-up, etc.** – Where funds or property of a corporation resident in Canada have at any time after March 31, 1977 been distributed or otherwise appropriated in any manner whatever to or for the benefit of the shareholders of any class of shares in its capital stock, on the winding-up, discontinuance or reorganization of its business, the corporation shall be deemed to have paid at that time a dividend on the shares of that class equal to the amount, if any, by which
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> > (a) the amount or value of the funds or property distributed or appropriated, as the case may be, exceeds
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> > (b) the amount, if any, by which the paid-up capital in respect of the shares of that class is reduced on the distribution or appropriation, as the case may be,
>
> and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess that the number of the shares of that class held by the person immediately before that time is of the number of the issued shares of that class outstanding immediately before that time.

[18] According to the Federal Court of Appeal (the FCA) in *Canada v. MacDonald*[1], subsection 84(2) of the Act applies where the following elements are present:

1) a Canadian resident corporation that is
2) winding up, discontinuing or reorganizing;
3) a distribution or appropriation of the corporation's funds or property in any manner whatever;

[1] 2013 FCA 110 (*MacDonald*).

4) to or for the benefit of its shareholders.[2]

[19] First, according to the respondent, it is not disputed that Gesco is a Canadian resident corporation. Secondly, still according to the respondent, the series of transactions described in paragraph 10 terminated Gesco's business. Thirdly, at the beginning of the transactions, Gesco's shares held by the Estate had an FMV of $1,587,866, and lastly, by the end of the series of transactions, the Estate held Gesco's assets.

[20] In *MacDonald*, the FCA held that subsection 84(2) applied, as Mr. MacDonald had initiated the winding-up and he was the one who had received the corporation's funds at the end of the winding-up.

[21] The respondent contends that the transactions made by the Estate are almost identical to the transactions in *MacDonald*.

[22] According to the doctrine of *stare decisis*, I am bound by the decisions of higher courts, whether I share the FCA's reasoning in *MacDonald* or not. Therefore, I am bound by the FCA's conclusions.

[23] That being said, I believe that it is useful to discuss several of the appellant's submissions as *MacDonald* resulted in considerable uncertainty. The appellant has added new arguments and taken up the arguments that the respondent relied on, but that were rejected by the FCA, in *MacDonald*. These arguments had been accepted, however, by the trial judge.

(1) *MacDonald*

[24] At trial, this Court acknowledged that Dr. MacDonald was the intermediary buyer's creditor and had received funds in his capacity as creditor, rather than as shareholder. As stated previously, the FCA explicitly rejected this finding, as the phrase "in any manner whatever" in subsection 84(2) should relate to a series of events that form part of the process of winding-up.[3]

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[2] *Ibid*., paragraph 17.

[3] *Ibid*., paragraph 28.

[25] The FCA held that this phrase had a broad meaning and also covered the distribution of a corporation's assets to a person who was no longer a shareholder of the corporation at the time of the distribution.

[26] The respondent in *MacDonald* argued that this phrase only referred to a distribution made, in any manner whatever, to a person who was a shareholder of the corporation at the time of the distribution.

[27] Before *MacDonald*, there were two ways to avoid the double taxation arising from the deemed disposition of a corporation's shares following a death. The first way was for the estate to wind up a holding company during the first year following the death. The winding-up would give rise to both a deemed dividend for the estate during its first taxation year and a capital loss that could be deducted from the capital gain of the deceased for their last taxation year. The second way consisted in making the post-mortem pipeline transaction as previously described. This was the method used by the Estate in the present case to avoid the double taxation.

[28] The uncertainty caused by *MacDonald* is mainly due to the ambiguity pertaining to the time limit that must be respected to avoid the application of subsection 84(2). How long must a taxpayer wait between undertaking a transaction of the "pipeline" type to wind up a holding company and completing the transaction and distributing the holding company's assets? Are 12 months, 24 months, or 36 months required?

[29] It is clear that the employees of the Canada Revenue Agency (the CRA) share this uncertainty. By way of example, the auditor responsible for the audit in the present case stated the following regarding the effect of *MacDonald* on post-mortem pipelines:

> [TRANSLATION]
> In order to better understand the context of the Agency's policy regarding post-mortem pipeline strategies, we have included an updated bulletin regarding these strategies in a schedule. The recent position of the Agency, in this bulletin, is based on the 2011-0401861C6 decision which specifies the situations that can engage subsection 84(2) of the *Income Tax Act* in the context of a pipeline strategy. The bulletin states that the situations or circumstances that may engage subsection 84(2) could include the following:
>
> - the funds or property of the transferred corporation are quickly distributed to the estate after the death of the taxpayer;

> • the shares of the transferred corporation are liquid shares, and the corporation is not engaged in any activity or business.

[30] Are the conditions described by the auditor cumulative? According to those conditions, it seems that subsection 84(2) applies when the property is [TRANSLATION] "quickly" distributed after the death, but what does the CRA mean by the word [TRANSLATION] "quickly"?

[31] In its written submissions, the appellant cited a number of cases that all hold that it is not the Court's role, much less that of public authorities, to restrict the wording of a provision by means of exceptions that are absent.

[32] Under *MacDonald*, taxpayers must obtain a favourable advance ruling from the CRA before engaging in post-mortem planning in order to be certain whether or not subsection 84(2) applies. Counsel who do not do so are exposing their clients to a risk. In substance, that case grants a discretionary power to the CRA with respect to the application of subsection 84(2).

[33] Recently, in the first paragraph of *Canada v. Alta Energy Luxembourg S.A.R.L.* ,[4] Justice Côté stated the importance of certainty in a self-assessing system like ours:

> The principles of predictability, certainty, and fairness and respect for the right of taxpayers to legitimate tax minimization are the bedrock of tax law.[5] . . .

[34] It seems to me that *MacDonald* waters down this doctrine. As the Supreme Court of Canada stated in *Canada Trustco Mortgage Co. v. Canada*,[6] our system is based on self-assessment and, as a result, consistent, predictable, fair rules are needed in order to respect the right of taxpayers to intelligently plan their tax affairs.[7]

(2) Distinguishing *MacDonald*

[35] In its written submissions, the appellant noted that it was important to distinguish between the situation in *MacDonald* and a post-mortem pipeline. While it is true that Justice Hershfield of the Tax Court of Canada (the TCC) compared the

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[4] 2021 SCC 49.
[5] *Ibid*., paragraph 1.

[6] 2005 SCC 54, [2005] 2 S.C.R. 601.
[7] *Ibid*., paragraph 12.

facts in that case to a post-mortem pipeline, the FCA did not discuss this strategy in its approach.

[36] That the aim of a post-mortem pipeline is to avoid the double taxation resulting from the deemed disposition following the death and the subsequent distribution of the corporation's assets to the Estate is not in dispute. According to the appellant, this technique conforms to Parliament's intention that the taxpayer receive a capital gain at the time of death. The appellant submits that Parliament's intent can be derived from the beginning of subsection 70(5) of the Act, which provides that, at the time of death, a taxpayer is deemed to have disposed of each capital property at its FMV, leading to a capital gain.

[37] The appellant submits that Parliament did not intend that the same property be subjected to double taxation when subsection 84(2) was enacted, as the combined marginal rate, if subsection 84(2) is added to subsection 70(5), would be 70.49%.

[38] Furthermore, the enactment of subsection 164(6) of the Act shows Parliament's concern regarding this double taxation, as it provides for the deduction of the capital loss that the estate incurs in the final tax return of the deceased.

[39] In the present case, at the very time of the audit, the CRA apparently committed itself, upon the taxpayer’s request, to accept the deduction of the capital loss resulting from the application of subsection 84(2) from the capital gain of the deceased. If the Court accepts the respondent's position in this matter, the parties are agreed that this deduction will be stand if subsection 84(2) applies.

[40] Of course, the appellant stated that the Minister had not abided by that commitment and that the risk of double taxation remained. This state of affairs warrants an additional comment. The fact that subsection 164(6) provides that the loss cannot be deducted until it has occurred during the estate's first taxation year creates an uncertainty regarding the time limit required before the funds can be distributed through a pipeline transaction. According to the CRA, the application of subsection 84(2) cannot be avoided until after the first year of the estate, but by then, it is too late to claim the deduction of the capital loss.

(3) The relevance of *Merritt* and *Smythe*

[41] The appellant notes that the legal environment of subsection 84(2) is very different from that in *Minister of National Revenue v. Merritt*[8] and *Smythe et al. v. Minister of National Revenue*,[9] two cases decided by the Supreme Court of Canada and followed by the FCA in *MacDonald*.

[42] Indeed, these two cases were decided at a time when capital gains were not taxable. Before the Carter Report of 1972, and in the absence of other rules, the winding-up of a Canadian corporation was treated like a capital transaction under the usual rules. Thus, contrary to the situation in *Merritt* and *Smythe*, both decided before 1972, with the enactment of the current subsection 84(2), a capital gain became subject to taxation.

[43] In the first case that the FCA followed, *Merritt*, the corporation had transferred its assets to a new corporation and demanded that the consideration paid for the assets be issued directly to the shareholders. In that situation, indeed, it can be accepted that the corporation distributed the consideration to its shareholders. Therefore, that case does not necessarily support the argument that the phrase "in any manner whatever" means a distribution made by another corporation in exchange for the transfer of shares of a holding company.

[44] In the second case followed by the FCA in *MacDonald*, *Smythe*, the original corporation sold its company to a new corporation following a capital transaction. The shareholders of the original corporation then sold their shares to two corporations created expressly for this purpose. Next, the original corporation used the proceeds received to buy preferred shares from the purchaser corporations in order to pay off the financing of the purchase price paid by these last. At the Exchequer Court, the judge held that the anti-avoidance rule at section 138 should apply rather than subsection 81(1), from which subsection 84(2) derives. The Supreme Court considered the result of the transaction and held that subsection 81(1) should apply because the transactions were artificial. It is important not to lose sight of the fact that the Supreme Court of Canada, in *Shell Canada Ltd. v. Canada*,[10] further clarified that "absent a specific provision of the Act to the contrary or a finding that they are a sham, the taxpayer's legal relationships must be respected in

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[8] [1942] S.C.R. 269 (*Merritt*).
[9] [1970] S.C.R. 64 (*Smythe*).

[10] [1999] 3 S.C.R. 622.

tax cases."[11] The only exception to this principle seems to be the possible application of the General Anti Avoidance Rule. Moreover, the decision rendered in *Smythe* was favourable to the taxpayer, as receiving a deemed dividend entitled the taxpayer to a dividend tax credit pursuant to section 38 of the Act at the time. The relevance of that case today might well be questioned given that a capital gain is now taxable, and that Parliament has set out circumstances in which a transfer of shares to a private corporation can lead to a deemed dividend.

(4) The language of subsection 84(2)

[45] Furthermore, the language of subsection 84(2) is much more specific regarding the moment when the deemed dividend is paid and received and regarding the persons who must include the deemed dividend in their income. The older versions of this provision, namely subsection 19(1) of the *Income Tax War Act* and subsection 81(1) of the *Income Tax Act* of 1952, were much less specific in those regards. These provisions read as follows:

> **19(1)** On the winding-up, discontinuance or reorganization of the business of any incorporated company, the distribution in any form of the property of the company shall be deemed to be the payment of a dividend to the extent that the company has on hand undistributed income.
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> **81(1)** Where funds or property of a corporation have, at a time when the corporation had undistributed income on hand, been distributed or otherwise appropriated in any manner whatsoever to or for the benefit of one or more of its shareholders on the winding-up, discontinuance or reorganization of its business, a dividend shall be deemed to have been received at that time by each shareholder equal to the lesser of
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> > (a) the amount or value of the funds or property so distributed or appropriated to him, or
> >
> > (b) his portion of the undistributed income then on hand.

[46] The phrases "any time," "that time," and "the time" are used throughout the current version of the provision. Here is an annotated version of the provision in English and French.

84(2) Where funds or property of a corporation resident in Canada have at	**84(2)** Lorsque des fonds ou des biens d'une société résidant au Canada ont, à

[11] *Ibid*., paragraph 39.

any time after March 31, 1977 been distributed or otherwise appropriated in any manner whatever to or for the benefit of the shareholders of any class of shares in its capital stock, on the winding-up, discontinuance or reorganization of its business, the corporation shall be deemed to have paid at that time (*at the time of the distribution*) a dividend on the shares of that class equal to the amount, if any, by which

(a) the amount or value of the funds or property distributed or appropriated, as the case may be

exceeds

(b) the amount, if any, by which the paid-up capital in respect of the shares of that class is reduced on the distribution or appropriation, as the case may be,

and a dividend shall be deemed to have been received at the time (*at the time of distribution*) by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess that the number of the shares of that class held by the person immediately before that time (*the time of distribution*) is of the number of the issued shares of that class outstanding immediately before that time (*the time of distribution*).

un moment donné après le 31 mars 1977, été distribués ou autrement attribués, de quelque façon que ce soit, aux actionnaires ou au profit des actionnaires de tout [sic] catégorie d'actions de son capital-actions, lors de la liquidation, de la cessation de l'exploitation ou de la réorganisation de son entreprise, la société est réputée avoir versé au moment donné (*au moment de la distribution*) un dividende sur les actions de cette catégorie, égal à l'excédent éventuel du montant ou de la valeur visés à l'alinéa *a*) sur le montant visé à l'alinéa *b*) :

a) le montant ou la valeur des fonds ou des biens distribués ou attribués, selon le cas;

b) le montant éventuel de la réduction, lors de la distribution ou de l'attribution, selon le cas, du capital versé relatif aux actions de cette catégorie;

chacune des personnes qui détenaient au moment donné (*au moment de la distribution*) une ou plusieurs des actions émises est réputée avoir reçu à ce moment (*au moment de la distribution*) un dividende égal à la fraction de l'excédent représentée par le rapport existant entre le nombre d'actions de cette catégorie qu'elle détenait immédiatement avant ce moment (*le moment de la distribution*) et le nombre d'actions émises de cette catégorie qui étaient en circulation immédiatement avant ce moment (*le moment de la distribution*).

[47] With respect, in my view, the FCA's interpretation in *MacDonald* does not take into account the clear phrases "any time," "that time," and "the time." However,

if these words are not considered, it seems to me that we are ignoring a well settled principle: Parliament does not speak in vain. The references to “time” have a very specific meaning; they can be found at the beginning and at the end of subsection 84(2) to signify both the time when the dividend is deemed paid and the time when the dividend is deemed to have been received and by whom. The time when the dividend is deemed paid corresponds to the time when the distribution is complete. Furthermore, the dividend is deemed received by the persons who were shareholders at that time.

[48] Therefore, in the present case, it is 9272 that was Gesco's shareholder at the time that Gesco was wound up and that it made the distribution. It is also 9272 that received Gesco's assets. Subsection 84(2) does not apply to 9272, but not because the language used by Parliament does not pertain to this situation; rather, the reason is that Parliament provided a specific exception to the application of this provision where the conditions laid out in section 88(2) are satisfied.[12] I believe that Parliament was fully aware that subsection 84(2) would be applicable were it not for this specific exception.

[49] In my view, these two provisions, which appear contradictory at first glance, can be reconciled. Subsection 84(2) applies when the funds or assets of a corporation are distributed or attributed, in any manner whatever, to the shareholders or for the benefit of the shareholders at the time of the distribution in the circumstances provided for in subsection 84(2).

[50] In my view, according to the FCA's holding in *MacDonald*, in the present case, the distribution of Gesco's assets to its former shareholder was made upon repayment of the note from 9272 held by the Estate.

[51] The construction propounded by the Minister and accepted in *MacDonald* gives rise to other problems. Let us take the following example. A taxpayer contributes $1,000,000 to a holding company by subscribing for common shares with a paid-up capital (PUC) and an ACB of $1,000,000. At the time of the taxpayer's death, the shares have an FMV of $4,000,000. The deemed disposition of the shares leads to a capital gain of $3,000,000. The estate creates a new corporation and sells the holding company's shares to the new corporation for a note. If subsection 84(2) is read according to the Minister's construction, that is to say

[12] According to the intent of Parliament, there has to be a complete "rollover" at the time of the winding-up.

textually, the deemed dividend would amount to $4,000,000 and not $3,000,000 because the PUC of the shares was not reduced when the note was repaid or when the assets were distributed from the holding company to the estate. Indeed, the paid-up capital reduction would have occurred before that moment, when Gesco was wound up into 9272. In addition to being subject to a double taxation, the Estate would be taxed more than if it had simply wound up the corporation or sold the shares to a third party.

[52] In addition, even if it is accepted that section 84.1 does not apply in this case, the application of subsection 84(2) in the manner proposed by the Minister does not take the application of this provision into account. Section 84.1 refers, precisely, to the conversion of capital distributions into deemed dividends when a related person uses the exemption for a capital gain or the value accumulated before 1971 to strip a corporation of its surpluses.

[53] Despite all these comments, even if the appellant's case has merit, with all due respect to the FCA's ruling, only the FCA would be able to revisit the *MacDonald* doctrine.

B. Can the Estate, under subsection 104(6), claim a deduction for the amounts paid to the legatees from its 2013 income?

[54] Two witnesses that were found to be credible by this Court, the affidavit provided by one of the legatees, and evidence from the bank show that the Estate paid $759,000 to the legatees.

[55] The Estate treated these distributions as capital payments because its counsel advised that subsection 84(2) did not apply.

[56] I must give effect to subsection 84(2) by applying the criteria used by the FCA in *MacDonald*. As a result, the Estate is deemed to have received a dividend in the amount of $1,567,016. The Estate used $759,000 of the deemed dividend to make distributions to the three legatees of the Estate during the 2013 taxation year.

[57] The appellant contends that it can claim this deduction, even if it had not done so. I accept the appellant's view on this point.

[58] The respondent contests this position, as the Estate treated the distributions as capital distributions, and it was not a shareholder when it was deemed to have received the dividend.

[59] This Court is now called to determine the accuracy of the computation of taxation by the Minister in the reassessment.

[60] The appellant, in its Notice of Appeal, claims a deduction pursuant to subsection 104(6). According to this provision, once a part of the estate's income "became payable," meaning that it was paid to the beneficiary or that the beneficiary had the right to demand payment,[13] the estate is entitled to a deduction. There is no doubt here that before it was paid, the sum was payable.

[61] I will also take this opportunity to reiterate that it is not the liquidators of the Estate who decide the nature of the income; it is the Act that determines whether the income is an income in capital or not. In *Brown v. Canada*,[14] the Federal Court clearly said that it is the Act that determines the nature of revenue for tax purposes.

IV. Conclusion

[62] For the reasons set out above, the appeal against the assessment for the appellant's 2013 taxation year is allowed and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment to allow the appellant to deduct $759,000 in the computation of its income.

Signed at Ottawa, Canada, this 27th day of January 2022.

"Robert J. Hogan"

Hogan J.

Translation certified true
on this 9th day of February 2022.

François Brunet, Revisor

[13] Subsection 104(24) of the Act.
[14] *Brown v. Canada*, [1980] 2 F.C. 356.

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STYLE OF CAUSE:	ESTATE OF THE LATE GEORGES ROBILLARD V. HER MAJESTY THE QUEEN
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REASONS FOR JUDGMENT BY:	The Honourable Justice Robert J. Hogan
DATE OF AMENDED JUDGMENT:	January 27, 2022

APPEARANCES:

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Counsel for the respondent:	Anne Poirier

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