

Docket: 2022-639(IT)G

BETWEEN:

PATRICIA HICKIE-SCHAEFFER,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

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Motion determined by Written Submissions  
Before: The Honourable Justice David E. Graham

Participants:

For the Appellant: no submissions received

Counsel for the Respondent: Melissa Nicolls  
Arielle Morgan

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**JUDGMENT**

The appeal of the reassessment of the Appellant's 2008 taxation year is quashed. The appeals of the Appellant's 2005, 2006 and 2007 taxation years are unaffected and may continue to trial.

Costs in respect of the motion to quash are awarded to the Respondent.

The parties shall file with the Registry a joint application for a hearing date for this appeal and related appeal number 2022-575(IT)G on or before April 19, 2024.

Signed at Calgary, Alberta, this 12th day of March 2024.

“David E. Graham”

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Graham J.

Citation: 2024 TCC 32  
Date: 20240312  
Docket: 2022-639(IT)G

BETWEEN:

PATRICIA HICKIE-SCHAEFFER,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

### **REASONS FOR JUDGMENT**

Graham J.

[1] The Appellant appealed reassessments of her 2005, 2006, 2007 and 2008 tax years.

[2] On January 24, 2024, the Respondent filed a motion (the “Motion”) to quash the appeal of the Appellant’s 2008 tax year on the basis that the Appellant had not filed a Notice of Objection to the reassessment of that year.

#### **Decision Based on Written Representations**

[3] The Respondent asked that the Motion be disposed of in writing upon consideration of written representations from the parties and without the parties having to appear in Court.

[4] Under section 69 of the *Tax Court of Canada Rules (General Procedure)*, the Appellant had 20 days to either file and serve written representations in opposition to the Motion or file and serve a written request for a hearing. The Appellant did not do either of these things within that deadline nor has she done so since.

[5] On February 5, 2024, the Registry wrote to the Appellant and asked the Appellant to provide any written representations that the Appellant might have about

the Motion prior to February 13, 2024. The Appellant did not respond to that letter by that date nor has she done so since.

[6] I have reviewed the Respondent's motion materials. I am satisfied that:

- (a) the Appellant was made aware of this issue as soon as the Respondent filed the Reply;
- (b) she has had multiple chances to address the issue since then;
- (c) she has failed to do so in any meaningful way;
- (d) she knew that the Respondent intended to bring the Motion; and
- (e) she failed to respond to the Motion.

[7] In the circumstances, I have concluded that it is appropriate to decide the Motion based on written representations. As the Appellant has not filed any written representations, I will determine the issue based on the materials provided by the Respondent.

### **Quashing**

[8] Based on the Respondent's materials, I find that the Appellant did not file a Notice of Objection to the reassessment of her 2008 tax year.

[9] I am satisfied that the CRA did not receive a Notice of Objection for that year. The Appellant has not produced a copy of the Notice of Objection that she says she filed. She has not provided any details of when or how she filed it. She has not even been able to explain what she was objecting to beyond asserting that it involved \$250 or less. There appears to be no connection between the GLGI issues raised in the Appellant's notice of appeal in respect of her 2005, 2006 and 2007 tax years and the small amount she says she is disputing for her 2008 tax year. In the circumstances, I find it difficult to conclude that she actually filed a Notice of Objection.

[10] A taxpayer cannot appeal the reassessment of a tax year to this Court if the taxpayer has not first filed a Notice of Objection. Therefore, the appeal of the reassessment of the Appellant's 2008 tax year must be quashed.

**Costs**

[11] The Respondent has requested costs in respect of the motion. I will award those costs.

[12] To the extent that the Respondent wants to seek costs in respect of the appeal of the 2008 taxation year as a whole, the Respondent may raise those costs at the conclusion of the trial of the appeals of the 2005, 2006 and 2007 tax years as the trial judge will be in a better position to assess the costs of the appeals of the four years as a whole.

Signed at Calgary, Alberta, this 12th day of March 2024.

“David E. Graham”

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Graham J.

CITATION: 2024 TCC 32  
COURT FILE NO.: 2022-639(IT)G  
STYLE OF CAUSE: PATRICIA HICKIE-SCHAEFFER v. THE KING  
DATE OF HEARING: Motion determined by Written Submissions  
REASONS FOR JUDGMENT BY: The Honourable Justice David E. Graham  
DATE OF JUDGMENT: March 12, 2024

**PARTICIPANTS:**

For the Appellant: no submissions received  
Counsel for the Respondent: Melissa Nicolls  
Arielle Morgan

**COUNSEL OF RECORD:**

For the Appellant:  
Name:  
Firm:

For the Respondent: Shalene Curtis-Micallef  
Deputy Attorney General of Canada  
Ottawa, Canada