

Docket: 2006-1741(IT)I

BETWEEN:

MARY AMMENDOLIA,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Appeals heard on June 25, 2007, at Toronto, Ontario

Before: The Honourable Justice L.M. Little

Appearances:

Agent for the Appellant: Derek Sorrenti

Counsel for the Respondent: Laurent Bartleman

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**JUDGMENT**

The appeals from the assessments made under the *Income Tax Act* for the 2002 and 2003 taxation years are dismissed, without costs, in accordance with the attached Reasons for Judgment.

Signed at Vancouver, British Columbia, this 16th day of August 2007.

“L.M. Little”

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Little J.

Citation: 2007TCC457  
Date: 20070816  
Docket: 2006-1741(IT)I

BETWEEN:

MARY AMMENDOLIA,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR JUDGMENT**

Little J.

A. Facts

[1] Between January 1, 2002 and December 31, 2003, the Appellant was employed concurrently by the following companies or entities:

- 944219 Ontario Limited (operating as Maple Rehabilitation Centre) (“944219”)
- The Maple Professional Centre (“Professional”)
- Dr. Carlo Ammendolia (The Appellant’s spouse) (“Dr. Ammendolia”)

[2] Between January 1, 2002 and December 31, 2003 the Appellant was also employed concurrently by TV Ontario.

[3] The Appellant’s spouse was a Chiropractor. The Appellant’s duties at 944219, Professional and Dr. Ammendolia’s clinic included office management and administrative functions.

[4] 944219 was a Company operated by the Appellant’s spouse. The Appellant’s spouse also operated Professional. (The above companies are hereinafter referred to as the “Husband’s Companies”.)

[5] The Appellant received non-commission employment income from her Husband's Companies as follows:

2002	\$32,195.00
2003	\$31,693.00

[6] The Appellant's employment duties at TV Ontario involved hosting and producing various television programs focused mainly on health and welfare and lifestyle issues. The Appellant hosted the following programs:

- More to Life
- The Health Series

[7] The Appellant received non-commission employment income from TV Ontario as follows:

2002	\$78,086.00
2003	\$90,182.00

[8] The Appellant maintains that she was required to incur significant expenditures which were not reimbursed by her Husband's Companies and TV Ontario.

[9] When the Appellant filed her income tax returns for the 2002 and 2003 taxation years she claimed the following employment expenses:

2002	\$28,810.00
2003	\$21,142.00

[10] The expenses claimed by the Appellant included the following:

- motor vehicle and other travel expenses
- supplies
- clothing, hair/make-up
- food, beverage, entertainment, newspapers, magazines, internet, and health club membership.

[11] The employment contracts signed by the Appellant with TV Ontario state that the Appellant was entitled to the following annual allowance with receipts:

2001 – 2002 – (The period from August 1, 2001 to July 31, 2002)

Professional Expenses (Annual allowances with submissions of proper receipts)

- wardrobe allowance of up to \$2,500.00
- hair/make-up as required.

(See Exhibit R-1 – Tab 1)

2002 – 2003 - (The period from August 1, 2002 to July 31, 2003)

Professional Expenses (Annual allowance with submissions of proper receipts)

- wardrobe allowance of up to \$3,500.00
- hair/make-up as required
- parking spot allowance of \$1,600.00

(See Exhibit R-1 – Tab 2)

2003 – 2004 – (The period from August 1, 2003 to July 31, 2004)

- wardrobe allowance of \$5,000.00 for “More to Life” and \$5,000.00 for “The Health Series”
- hair/make-up as required
- parking spot – allowance of \$1,600.00)

(See Exhibit R-1 – Tab 3)

[12] By Notices of Reassessment dated April 11, 2006, the Minister of National Revenue (the “Minister”) allowed the Appellant to deduct work space in the home expenses as follows:

2002	\$1,442.00
2003	\$1,688.00

[13] All of the other expenses claimed by the Appellant were disallowed by the Minister.

B. Issue

[14] The issue is whether the Appellant is entitled to deduct any expenses in addition to the expenses allowed by the Minister in determining her income for the 2002 and 2003 taxation years.

C. Analysis and Decision

[15] Subsection 8(1) of the *Income Tax Act* (the “*Act*”) specifies the various deductions that are available to a taxpayer in computing income in a taxation year from an office or employment.

[16] Subsection 8(2) of the *Act* contains a general limitation that no deductions except those permitted in subsection 8(1) are to be made in computing a taxpayer’s income.

[17] In connection with the expenses claimed by the Appellant related to her employment with her Husband’s Companies, I have concluded that the Appellant is not allowed to deduct any of these expenses because she was a non-commission employee of these employers. In reaching this conclusion I note that as a non-commission employee the Appellant is restricted to those deductions that are specified in section 8 of the *Act*.

[18] With respect to the expenses relating to a motor vehicle, travel supplies, clothing, hair/make-up, food, beverage, entertainment, newspapers, magazines, internet and health club membership, section 8 of the *Act* restricts the expenses that a non-commission employee may claim. Furthermore, as is noted above the Appellant was reimbursed by TV Ontario for many of the expenses that she claimed.

[19] I also wish to note that the Appellant decided not to testify at the hearing and the Appellant’s spouse attempted to give evidence on behalf of the Appellant. I found that the evidence provided by the Appellant’s spouse was inadequate and insufficient to discharge the onus that was on the Appellant. In my opinion the Appellant has not met the onus of establishing that the Minister’s reassessments were incorrect. From an analysis of the evidence I have also concluded that many of the expenses claimed by the Appellant were personal expenses that are not allowed by section 8 of the *Act*.

[20] The appeals are dismissed without costs.

Signed at Vancouver, British Columbia, this 16th day of August 2007.

“L.M. Little”

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Little J.

CITATION: 2007TCC457

COURT FILE NO.: 2006-1741(IT)I

STYLE OF CAUSE: Mary Ammendolia  
and Her Majesty the Queen

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: June 25, 2007

REASONS FOR JUDGMENT BY: The Honourable Justice L.M. Little

DATE OF JUDGMENT: August 16, 2007

APPEARANCES:

Agent for the Appellant: Derek Sorrenti

Counsel for the Respondent: Laurent Bartleman

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.  
Deputy Attorney General of Canada  
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