Docket: 96-3094(IT)I
96-3370(IT)I

BETWEEN:

NICOLE ST-LAURENT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Guy Delisle (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Judge Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3096(IT)I
96-4336(IT)G

BETWEEN:

GUY DELISLE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Judge Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Docket: 96-3099(IT)I

BETWEEN:

ROBERT DUFOUR,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeal from the assessment made under the *Income Tax Act* for the 1989 taxation year is dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3102(IT)I
96-3371(IT)I

BETWEEN:

JEAN SIMARD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3103(IT)I
96-3367(IT)I

BETWEEN:

GILLES KELLY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3104(IT)I
96-3349(IT)I

BETWEEN:

DENIS GUILLEMETTE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3106(IT)I
96-3315(IT)I

BETWEEN:

DENIS DUPLAIN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3114(IT)I
96-4344(IT)G

BETWEEN:

YVAN BILODEAU,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3115(IT)I
96-3234(IT)I

BETWEEN:

DANIEL ST-PIERRE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3118(IT)I
96-3240(IT)I

BETWEEN:

DENIS VILLENEUVE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3119(IT)I
2004-3915(IT)I

BETWEEN:

STEVE SUTHERLAND,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3122(IT)I
96-3238(IT)I

BETWEEN:

YVES TOURVILLE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3134(IT)I
96-3261(IT)I
2004-2148(IT)I

BETWEEN:

LUCIE POIRIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989, 1990 and 1991 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3139(IT)I
96-3246(IT)I
2004-2130(IT)I
2004-2131(IT)I

BETWEEN:

ALAIN AUBÉ,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of
Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989, 1990, 1991 and 1992 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3140(IT)I
96-3369(IT)I

BETWEEN:

CLÉMENT LAPOINTE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3145(IT)I
96-4339(IT)G
2004-633(IT)I

BETWEEN:

GILLES FLEURY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989, 1990 and 1991 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3149(IT)I
96-3373(IT)I

BETWEEN:

CHANTAL SIMARD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3152(IT)I
96-3245(IT)I

BETWEEN:

JEAN-PIERRE ANCTIL,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3162(IT)I
96-3241(IT)I

BETWEEN:

LOUIS VÉZINA,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3166(IT)I
96-3305(IT)I

BETWEEN:

LOUIS-MARIE ROSS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3167(IT)I
96-3303(IT)I

BETWEEN:

GÉRALD ROBITAILLE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I).

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3171(IT)I
96-3320(IT)I

BETWEEN:

MICHEL PICHETTE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3173(IT)I
96-3365(IT)I
2004-375(IT)I

BETWEEN:

GUY LANGLOIS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1988, 1989, 1990, 1991 and 1992 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3175(IT)I
97-24(IT)G

BETWEEN:

MARIE-MARTHE BROCHU,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec

Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3176(IT)I
2004-2789(IT)I

BETWEEN:

YVON PARÉ,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec

Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3192(IT)I, 96-3317(IT)I,
2004-120(IT)I

BETWEEN:

REMY LESSARD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1988, 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Docket: 96-3237(IT)I

BETWEEN:

JEAN-CLAUDE THIVIERGE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec

Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeal from the assessments made under the *Income Tax Act* for the 1990 taxation year is dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3316(IT)I
2004-2129(IT)I

BETWEEN:

FRANÇOIS LAPOINTE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005
and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1990, 1991, 1992 and 1993 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-3372(IT)I
96-4347(IT)G

BETWEEN:

JULES-FABIEN SIMARD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I) and *Guy Drolet* (96-4334(IT)G), (2004-2795(IT)I).

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1989 and 1990 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Dockets: 96-4334(IT)G
2004-2795(IT)I

BETWEEN:

GUY DROLET,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeals heard on common evidence with the appeals of

Nicole St-Laurent (96-3094(IT)I), (96-3370(IT)I), *Guy Delisle* (96-3096(IT)I), (96-4336(IT)G), *Robert Dufour* (96-3099(IT)I), *Jean Simard* (96-3102(IT)I), (96-3371(IT)I), *Gilles Kelly* (96-3103(IT)I), (96-3367(IT)I), *Denis Guillemette* (96-3104(IT)I), (96-3349(IT)I), *Denis Duplain* (96-3106(IT)I), (96-3315(IT)I), *Yvan Bilodeau* (96-3114(IT)I), (96-4344(IT)G), *Daniel St-Pierre* (96-3115(IT)I), (96-3234(IT)I), *Denis Villeneuve* (96-3118(IT)I), (96-3240(IT)I), *Steve Sutherland* (96-3119(IT)I), (2004-3915(IT)I), *Yves Tourville* (96-3122(IT)I), (96-3238(IT)I), *Lucie Poirier* (96-3134(IT)I), (96-3261(IT)I), (2004-2148(IT)I), *Alain Aubé* (96-3139(IT)I), (96-3246(IT)I), (2004-2130(IT)I), (2004-2131(IT)I), *Clément Lapointe* (96-3140(IT)I), (96-3369(IT)I), *Gilles Fleury* (96-3145(IT)I), (96-4339(IT)G), (2004-633(IT)I), *Chantal Simard* (96-3149(IT)I), (96-3373(IT)I), *Jean-Pierre Anctil* (96-3152(IT)I), (96-3245(IT)I), *Louis Vézina* (96-3162(IT)I), (96-3241(IT)I), *Louis-Marie Ross* (96-3166(IT)I), (96-3305(IT)I), *Gérald Robitaille* (96-3167(IT)I), (96-3303(IT)I), *Michel Pichette* (96-3171(IT)I), (96-3320(IT)I), *Guy Langlois* (96-3173(IT)I), (96-3365(IT)I), (2004-375(IT)I), *Marie-Marthe Brochu* (96-3175(IT)I), (97-24(IT)G), *Yvon Paré* (96-3176(IT)I), (2004-2789(IT)I), *Remy Lessard* (96-3192(IT)I), (96-3317(IT)I), (2004-120(IT)I), *Jean-Claude Thivierge* (96-3237(IT)I), *François Lapointe* (96-3316(IT)I), (2004-2129(IT)I) and *Jules-Fabien Simard* (96-3372(IT)I), (96-4347(IT)G)

on October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005
and December 1, 5, 6, 7, 8, 19 and 20, 2005, at Québec, Quebec
Before: The Honourable Justice Alain Tardif

Appearances:

Counsel for the Appellant:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis

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JUDGMENT

The appeals from the assessments made under the *Income Tax Act* for the 1990 and 1991 taxation years are dismissed in accordance with the attached Reasons for Judgment.

However, since all the appeals were heard on common evidence, the fees for the preparation for the hearing, the hearing, and the taxation of costs, shall be limited to those that would be applicable in a single appeal.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

Citation: 2007TCC540
Date: 20071115

Dockets: 96-3094(IT)I, 96-3096(IT)I, 96-3099(IT)I, 96-3102(IT)I, 96-3103(IT)I, 96-3104(IT)I, 96-3106(IT)I, 96-3114(IT)I, 96-3115(IT)I, 96-3118(IT)I, 96-3119(IT)I, 96-3122(IT)I, 96-3134(IT)I, 96-3139(IT)I, 96-3140(IT)I, 96-3145(IT)I, 96-3149(IT)I, 96-3152(IT)I, 96-3162(IT)I, 96-3166(IT)I, 96-3167(IT)I, 96-3171(IT)I, 96-3173(IT)I, 96-3175(IT)I, 96-3176(IT)I, 96-3192(IT)I, 96-3234(IT)I, 96-3237(IT)I, 96-3238(IT)I, 96-3240(IT)I, 96-3241(IT)I, 96-3245(IT)I, 96-3246(IT)I, 96-3261(IT)I, 96-3303(IT)I, 96-3305(IT)I, 96-3315(IT)I, 96-3316(IT)I, 96-3317(IT)I, 96-3320(IT)I, 96-3349(IT)I, 96-3365(IT)I, 96-3367(IT)I, 96-3369(IT)I, 96-3370(IT)I, 96-3371(IT)I, 96-3372(IT)I, 96-3373(IT)I, 96-4334(IT)G, 96-4336(IT)G, 96-4339(IT)G, 96-4344(IT)G, 96-4347(IT)G, 97-24(IT)G, 2004-120(IT)I, 2004-375(IT)I, 2004-633(IT)I, 2004-2129(IT)I, 2004-2130(IT)I, 2004-2131(IT)I, 2004-2148(IT)I, 2004-2789(IT)I, 2004-2795(IT)I and 2004-3915(IT)I.

BETWEEN:

NICOLE ST-LAURENT, GUY DELISLE, ROBERT DUFOUR, JEAN SIMARD, GILLES KELLY, DENIS GUILLEMETTE, DENIS DUPLAIN, YVAN BILODEAU, DANIEL ST-PIERRE, DENIS VILLENEUVE, STEVE SUTHERLAND, YVES TOURVILLE, LUCIE POIRIER, ALAIN AUBÉ, CLÉMENT LAPOINTE, GILLES FLEURY, CHANTAL SIMARD, JEAN-PIERRE ANCTIL, LOUIS VÉZINA, LOUIS-MARIE ROSS, GÉRALD ROBITAILLE, MICHEL PICHETTE, GUY LANGLOIS, MARIE-MARTHE BROCHU, YVON PARÉ, REMY LESSARD, JEAN-CLAUDE THIVIERGE, FRANÇOIS LAPOINTE, JULES-FABIEN SIMARD and GUY DROLET,

Appellants,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR JUDGMENT

Tardif J.

[1] The Appellant Jean Simard is appealing before the Tax Court of Canada from two assessments made under the *Income Tax Act* ("the Act") in respect of his 1989 and 1990 taxation years. In those assessments, the Minister of National Revenue ("the Minister") disallowed a business loss and an investment tax credit (ITC) that the Appellant had claimed in respect of amounts invested in the Société de recherches expérimentales en télématique (hereinafter "Télématique") partnership and the R&D Écologika (hereinafter "Écologika") partnership.

INTRODUCTION

[2] Following certain changes to legislation, a number of promoters created various partnerships for the purpose of raising significant sums of money for scientific research and experimental development (SR&ED).

[3] Dozens of new partnerships were created, and a few thousand investors put large sums of money into what were commonly called tax shelters.

[4] The fact that so many files had to be considered and managed resulted in delays that were aggravated by the existence of several interest groups, the submission of various memoranda, various political interventions, and so forth.

[5] In addition, a taxpayers' association was formed in order to seek solutions. This gave rise to a variety of efforts to resolve this very unusual situation, which clearly elicits sympathy given that large numbers of people had to deal with major claims that often had painful effects on their daily lives.

[6] Several studies were done, and, in 1995, for a variety of reasons, a settlement offer was submitted to everyone who had invested in this type of tax shelter. The offer was accepted by the vast majority of those affected.

[7] Some people, including the Appellant, rejected the settlement offer.

[8] This is why we are once again addressing the thorny issue of tax shelters. The hearing in the instant proceedings involved 30 appellants and 63 appeals, listed in the appendix hereto. The appellants in question belong to a group of more than 6,000 taxpayers who received close to 10,000 assessments, all of which have that issue in common. It was therefore decided that the findings of this appeal would apply to all these appellants, all of whom are represented by Normand Roy. In fact, a similar procedure was followed in *McKeown v. Canada,* 96-2732(IT)G, March 12, 2001, [2001] T.C.J. No. 236 (QL).

[9] The element common to all 30 appellants is that they invested in the Télématique, Écologika or PC-Dollar partnerships.

FACTS

[10] Very succinctly, the important facts pertaining to the Appellant Jean Simard are as follows.

[11] The Appellant is a notary who practices on his own and has no scientific training. He has some investment experience, holds a stock portfolio, and is also interested in investments that offer tax benefits.

[12] In December 1989, the Appellant invested $20,000 in the Télématique partnership on the recommandation of his accountant Gilles Kelly of the firm of Aubé, Anctil, Pichette et Kelly ("the accounting firm"). He sold his interest in that partnership in January 1990.

[13] In December 1990, he invested, again, $20,000 in the Écologika partnership, as recommended, once again, by Gilles Kelly. In May 1991, he sold his interest shortly after purchasing it, just as he had done with his interest in the Télématique partnership.

[14] The activities of both partnerships pertained to computer science SR&ED. Both partnerships had tax shelter numbers issued by the Canada Revenue Agency ("the Agency").

[15] The Appellant filled out his tax return for the 1989 taxation year; he received a first notice of assessment on September 12, 1990, and a notice of reassessment on July 19, 1993. For the year 1990, he received an initial notice of assessment on July 29, 1991, and a notice of reassessment on May 24, 1994. These notices of reassessment ultimately disallowed the business losses and ITCs claimed in his income tax returns.

[16] Consequently, the Appellant filed notices of objection to these reassessments, and later filed notices of appeal.

[17] That is the what gave rise to this litigation. Naturally, there were numerous additional facts which required several days of hearings.

THE TESTIMONY

[18] Several witnesses came to testify at the hearing of these 64 appeals. In order to identify what is primarily at stake in the instant case, I believe it would be helpful to present, very briefly, the testimony given by the witnesses.

The Appellants

Jean Simard

[19] Jean Simard was the first witness to be heard. As I have stated, he has been a notary since 1974 and is a sole practitioner. His testimony disclosed the following relevant facts:

a. The investment project was described to him in late 1989 by Gilles Kelly, his accountant, with whom he had three or four informal meetings and one or two telephone conversations.

b. It was described to him as an investment in a partnership engaged in SR&ED — an investment which could ultimately lead to a profit, and which had a tax shelter number.

c. He trusted his accountant completely with respect to all issues related to his investment; hence, he did not seek information regarding the details of his investment. His verification was limited to asking his accountant whether everything was approved. Apparently, the Appellant was told that someone named Normand Lassonde was in charge of the tax shelter, that Mr. Lassonde had been doing SR&ED for several years, and that he was very credible. Jean Simard never met this Normand Lassonde.

d. He said that he only met five to eight of the 1100 Télématique partners, and even said [TRANSLATION] "I don't need to know them."

e. The Appellant said that the Écologika investment was similar. This is why he did not see any partnership agreement, does not even recall signing such a document, did not in any way check into the expenses that were being incurred, and so forth. He knew only a few of the 143 members of that partnership.

f. The purchase of the shares in these partnerships was very simple. The only requirement for Télématique was to fill out a three-page questionnaire containing eight multiple-choice or numbered-answer questions, and the only requirement for Écologika was to fill out four equally simplistic questionnaires. The stated deadline for returning these forms was even prior to the investments themselves. The Appellant said it was his understanding that these questionnaires corresponded to his engagement in the partnerships.

g. To his knowledge, nothing happened between the time that he purchased his shares and the buyback date; thus, apart from signing those forms, he did nothing in relation to the partnerships. He submits that this was a speculative investment, and that the results of the research could potentially have produced a spectacular profit.

h. He did not seek any information regarding the partnerships. He said that he did not participate in their projects. He admits that he did not play an active role in the partnerships.

i. Jean Simard's testimony with respect to the buyback of his shares contradicted the evidence that the share transfer forms were signed at the same time as his membership enrolment forms. However, after 16 days of hearings, Mr. Simard admitted that he was handed them at the same time.

j. As for the signing of the waiver of the limitation period, the Appellant disclosed, on cross-examination, that he did this through his accountant to give the partnership time to submit representations to the Agency.

k. He never contacted the tax authorities directly with respect to his assessments. He always relied on his representatives.

l. He never even contacted the lawyer who was initially handling the file and who lodged the objection and the appeal proceedings before this Court.

m. Gilles Kelly, now deceased, appears to have had a major influence on the decisions made by the Appellant. The Appellant says that he had great confidence in Mr. Kelly.

n. The Appellant complains that the Agency failed to give him the facts that were essential to making an informed decision concerning his investments.

o. He testified that when the offer of settlement was made in 1995, he had all the important facts available to him, but apparently not the very important facts.

p. However, he admits that he did not try to contact the Agency for more information. Once again, he relied on the people who encouraged him to make his investment.

q. He made the decision to decline the settlement offer even though he knew that it would have the effect of reducing his debt from $34,838 to $13,242, thereby saving him $21,595, on the basis that he did not want to waive his rights with respect to one of the files, given that the offer was comprehensive and indivisible.

r. He placed particular emphasis on the fact that his tax return was initially accepted as filed, thereby having the effect, in his submission, of establishing the validity of his investment from a legal and accounting perspective. He argued that this validation is largely what prompted his second investment.

s. Lastly, he said that he suffered very serious harm, and complained of numerous delays, information shortages, and instances of aggressiveness, incompetence, unfairness, lack of concern, etc., which he believes are a sufficient basis on which to vacate the assessments.

t. The Appellant insisted that the Agency was responsible because it expressly encouraged taxpayers to invest in tax shelters.

u. Moreover, the Appellant submitted that this constituted a somewhat culpable complicity on the Agency's part, in that the Agency encouraged many people to avail themselves of the tax advantages associated with research and development projects.

Yvan Bilodeau

[20] Like Jean Simard, Yvan Bilodeau invested money in the Écologika and Télématique partnerships following a meeting with the accountant Gilles Kelly. His testimony can be summarized as follows:

a. He said that he contacted the Agency to verify the tax shelter numbers and Normand Lassonde's experience, but he could not say whom he spoke to, or when. He never asked the Commission des valeurs mobilières du Québec ("CVMQ") [the Quebec securities commission] to look into anything. Like the Appellant Simard, he relied on the accounting firm to do the checking before and after the investments.

b. He placed a great deal of emphasis on his trust in the accountant.

c. He knew only ten of the roughly 1100 members of Télématique; he let the accounting firm verify the partnership's solvency.

d. With respect to Télématique's projects, he testified that one of them was completed, even though the evidence disclosed that it was abandoned following a breakdown of discussions with Bell Canada.

e. When he received the Écologika financial statements, which reported assets of only $82, he relied on Gilles Kelly, who allegedly told him, once again, that everything was fine.

f. His involvement in the partnerships was limited to filling out the necessary questionnaires. He played no role and participated in no concrete activities and no meetings of any kind with respect to the partnerships. The questionnaires that he was given had to be returned prior to the date on which he made the investments.

g. He never received the final research reports, because, by the time they were issued, he was no longer a member of the partnerships.

h. He was unable to say when he got possession of his share transfer form; he did not deny signing it at the same time as the membership enrolment form.

i. He said he thought the investment looked extraordinary, but never inquired about the value of his shares when he decided to sell them — a decision that he may have made at the same time that he purchased them.

j. With respect to the waiver of the limitation period and the revocation of that waiver, he initially denied that his signature was on the documents. On cross-examination, he tempered his position, stating instead that he did not recall signing them, but admitting that he knew investors signed documents pertaining to the limitation period because this was stated in the notice of objection and the Notice of Appeal submitted to the Court.

k. He never contacted the tax authorities even though his notices of assessment invited him to do so; in fact, he did not respond to certain letters from the Agency.

l. He spoke to his representative about the settlement offer, but his representative supposedly told him that it pertained to matters in which the amount in issue was much lower. He was aware that the offer would have enabled him to have the interest on his tax debt cancelled.

m. He also explained that he suffered serious harm as a result of the assessments; however, he was not particularly forthcoming about his complaints regarding the Respondent.

n. He said that Normand Lassonde told him not to pay his tax debt.

Alain Aubé

[21] Alain Aubé is a chartered accountant and a partner with the accounting firm. He made an investment in the Télématique and Écologika partnerships in the same capacity as the Appellants Simard and Bilodeau. His testimony disclosed the following:

a. He relied on Gilles Kelly and Michel Pichette, two colleagues at his firm, for his investments, and one of the main purposes of the investments was to obtain tax benefits.

b. He said that he had almost nothing to do with his clients' investments, even though the documentary evidence discloses that he personally filled out the documentation for his clients.

c. He admitted that he knew the tax shelter number was of no help if the various partnerships did not carry out any research, and he said that he might have told his clients this. But the evidence in this regard showed that Yvon Paré, one of the investors, was not aware of this fact.

d. He testified that he got involved in the partnerships in the hope that the research would yield interesting results. He said that, in any event, the partnerships' management did not ask anything else of the investors. He was unable to tell the Court whether Télématique had a bank account, he never saw any market studies, and so forth. Instead, his testimony disclosed a lack of interest in the activities of the research partnerships.

e. At the time that his shares were bought back, he did not ask to see the research results.

f. He admitted that the share buyback was discussed at the time that the investment was made, but the circumstances and time of the buyback remained nebulous. In contrast to this aspect of his testimony, Yvon Paré, a client of his, testified that Mr. Aubé was aware of the buyback from the beginning.

g. Alain Aubé's testimony was highly contradictory on another point. He said that he did not receive the 1992 draft assessment confirming the Minister's position that he was a specified member, whereas Yvon Paré said that he sent that draft assessment to Alain Aubé, who had allegedly told him: [TRANSLATION] "Fax it to me. I'll have a look."

h. He admitted that he filled out a limitation waiver and submitted it to his partner Michel Pichette, the tax specialist, for verification. He knew that he had to sign the waiver in order to enable Normand Lassonde to continue making representations to the Agency.

i. He said that all the notices of assessment that were received were given to Michel Pichette, the tax specialist.

j. With respect to the 1995 settlement offer, he said that he should have accepted it in 2002. He complained that the Agency did not inform him of Normand Lassonde's troubles. He explained that he did not sign the offer because he believed in Mr. Lassonde's project without having looked into any aspect of it. He said that he spoke to no one other than his representatives before declining the settlement offer, and that if it had been stated, in writing, that frauds were involved, he would have accepted the offer, but that he continues to believe in Normand Lassonde, whom he admits to meeting during the trial.

k. As for the allegations of harm caused by the Agency, his testimony clearly demonstrates his own naïveté. The complaints about the Agency are not particularly specific and are rather vague.

l. As for the PC-Dollar partnership, he did not make any investments in it, and even advised his clients against doing so.

Gilles Fleury

[22] Gilles Fleury, a witness called by the Respondent, has been a pharmacist since 1977. He owned between five and seven pharmacies during the relevant period. His testimony disclosed the following:

a. He made investments in the Télématique, Écologika and PC-Dollar partnerships based on the advice of his accountant Gilles Kelly. Mr. Kelly recommended projects to him and assured him that the investments were recognized by the government and that there would be an attractive tax deduction and a buyback in all three cases.

b. He said that, aside from the tax advantages and benefits, he did not anticipate any income related to these investments.

c. Upon making his investments, he did not know that he would be a partner, that he would have unlimited liability for the debts of the partnerships, etc. He had no idea what research the partnerships in question were allegedly doing.

d. He said that he was in no way involved in the partnerships in which he made investments, except perhaps by filling out questionnaires that he clearly considered trivial.

e. He said that there was a [TRANSLATION] "buyback policy".

f. His testimony about the waiver of the limitation period was very cursory. The waiver was supposedly signed by Lucie Pouliot, an accountant who worked for Gilles Kelly.

g. He made practically no efforts to find out about the nature of the disputes with the Agency; once again, he left everything in his accountant's hands. His stance on the 1995 settlement was the same: he relied solely on Gilles Fleury.

h. He even said that these investments were "peanuts" to him. This makes it difficult to find that he suffered serious harm.

i. His testimony is that he had complete confidence in the accountant. They had known each other for a long time, and the accountant strongly recommended that he make investments in what were commonly known as the "tax shelters". He did not check into anything, much less have any doubts. He said that his reaction was: [TRANSLATION] "You got me into this, so do what is necessary to get me out."

Yvon Paré

[23] Yvon Paré also testified at the Respondent's request. His testimony disclosed the following:

a. It was Alain Aubé who suggested the investment to him. SR&ED investments were all the rage. He discussed the investment solely with Alain Aubé.

b. He was not aware of the legal form of the investment; the only thing he knew was that he was making an SR&ED investment in tax shelters.

c. His involvement in the research projects was limited to filling out questionnaires.

d. The share transfer agreement form was completed by Alain Aubé. He knew from the start that his shares would be bought back shortly afterwards, and that this was one of the advantages of the tax shelter investment in question.

e. By 1992, he had already received a draft assessment disallowing the partnerships' expenses, and he submitted it to Alain Aubé to look after it.

f. He recognized the signature on the limitation waiver, which he signed in order to enable the government to shed light on the matter.

g. His testimony discloses that he always relied on his representatives for his objections, appeal, and so forth.

h. He said that he did not accept the settlement offer because he was fighting about his partner status at the time, and did not want to waive his rights.

i. His testimony contained no references to any harm caused by the Respondent. The interest on his tax debt resulted from his choice to listen to his representatives' recommendations.

The third parties

[24] The Respondent provided a very good summary of the testimony given by Maurice Pouliot and Almire Lamontagne, and I adopt that summary as my own.

Maurice Pouliot

[25] First of all, Maurice Pouliot's testimony discloses that there were problems that even an investment novice should have recognized, since he himself was only 24 years old at the time that the events occurred.

[26] After being told about the process involved in making an investment of this type, he contacted the Caisse populaire to obtain financing for his investment.

[27] He met with his credit officer, who had doubts about the investment and referred it to a colleague, who then referred it to the CVMQ.

[28] Some research done by this witness — research that was not necessarily particularly complex — revealed that Normand Lassonde was under investigation. For this reason alone, Mr. Pouliot decided not to invest in the tax shelters; according to a CVMQ representative, there was a chance that the shelters might be audited and disallowed by the tax authorities.

Almire Lamontagne

[29] The testimony of the witness Almire Lamontagne was almost identical, and provided details of his tax refund and various credits. He was allegedly told that the tax shelter number meant that the tax authorities had accepted the project. This, he says, is why he decided to invest in the Écologika and PC-Dollar partnerships. He had no duties to perform, apart from filling out some questionnaires and paying the money. However, he says that the problems began after he received the notices of reassessment. He tried to obtain answers but never got any; essentially, when the 1995 settlement offer was made, he decided to end the entire misadventure.

[30] He made this decision alone, without relying on professional advice. He admits that he was naive to invest in these tax shelters, but not to the extent that he continued to seek documents and explanations from the promoters. He even testified that, at one point, he was no longer sure that the tax authorities were the adversary in this matter; rather, he believed it was the promoters.

The auditors

Georges Ledoux

[31] Georges Ledoux, now retired, was the head of Special Investigations for the Agency's office in Montréal at the time that the events unfolded.

[32] His testimony was about the disclosure of personal information. He asserted that the disclosure of personal information was prohibited by section 241 of the Act. Counsel for the Appellants tried to prove that the Agency and the CVMQ exchanged confidential information. No such finding can be made based on Mr. Ledoux's testimony.

Michel Beaudry

[33] Michel Beaudry's testimony was primarily about the decision to refer the issue of the interpretation of "specified member" to the Rulings Directorate in Ottawa.

[34] Despite the attempts by counsel for the Appellants to have the auditor admit that the phrase "specified member" was ambiguous, the auditor held fast and testified consistently.

[35] He explained that the only reason the question was referred to the Rulings Directorate was that there was a difference of opinion between the Agency and the taxpayers on the subject.

[36] Thus, the Agency chose to submit the question to the Rulings Directorate in order to obtain the opinion of a third party. In fact, the partnerships' representatives agreed to make written submissions on the issue.

[37] The auditor stated that the meaning of the phrase was so clear to the Agency at that time that it already had all the draft assessments ready. The decision to submit the question to the Rulings Directorate essentially resulted from the insistence of the representatives of the partnerships that participated in the various projects.

Josée Rodrigue

[38] Josée Rodrigue was an objections officer with the Agency, and she still held that position at the time that she testified. She was responsible for the objections concerning the Télématique partnership.

[39] Her examination in chief was about why and when she asked headquarters for their opinion. Despite efforts to establish the merits of the main complaints – complaints which included delays, indecisiveness, ambiguity and hesitancy – the persons responsible for the Appellants' files remained unshakeable.

[40] On cross-examination, Ms. Rodrigue stated that she had possession of the Télématique file for one year and three months, that she waited for the representations of Mr. Gagné, the Appellants' counsel, for seven months, and that Mr. Gagné died before the hearing. Lastly, she said that she made no decisions regarding the objection in this matter because the file was referred to headquarters due to the very large number of files and the numerous interventions.

[41] Counsel for the Appellants also tried to establish that there was a broken promise to deal with the objection promptly.

Lucien Bouchard

[42] Lucien Bouchard testified in his capacity as a program officer with the Agency. The purpose of his testimony was to provide evidence that the SR&ED aspect of the income tax returns was not truly examined in 1989 and 1990. The Appellant thought that he would be able, through Mr. Bouchard's testimony, to show that the Appellant's tax returns were not really examined; this is one of the Appellant's main complaints.

[43] During Mr. Bouchard's testimony, the Respondent objected on public interest grounds (section 37 of the *Canada Evidence Act*, R.S.C. 1985, c. C-5) to the witness adducing the Agency's guides and directives. Having heard submissions from both parties, I determined that the *Taxation Operations Manual* should not be disclosed to the public. The evidence that counsel for the Appellants intended to adduce could be offered without the document in question, and the fact that the public interest was at stake made this particularly advisable.

[44] Mr. Bouchard testified about the process leading up to the issuance of the first notice of assessment, and about the way in which Agency officials processed tax returns that were received.

[45] The witness stated that a summary examination was made, and he cited, as an example, taxpayers who claimed certain deductions, specifically SR&ED-related deductions. He said that certain verifications were made, notably to ascertain whether the relevant documents were in the file. After that, a notice of assessment was issued to the taxpayer.

[46] He also said that the verifications varied based on the deductions claimed in the returns.

[47] However, the witness was unable to describe exactly what was done in 1989, especially since the procedure set out in the manual has been abolished; the manual in question is no longer available today.

[48] What is certain is that income tax returns are subject to a summary examination with particular attention as to whether the necessary documents have been attached.

Serge Huppé

[49] At the time that he testified, Serge Huppé was a team leader with the Agency's Appeals Branch at its headquarters in Ottawa. Indeed, he has testified on several occasions in cases involving SR&ED, notably *McKeown*.

[50] In his testimony, which lasted more than a day, he explained the process that was followed in the audit of the files in the instant case, and the process that led to the settlement offer.

[51] Mr. Huppé explained the work done by the task force set up to manage the numerous objections that were filed following the changes made to the legislation in 1987 and 1988.

[52] The task force came to the decision that all the investors would be assessed as "specified members", and specifically, "passive" specified members, regardless of the partnership in which they had invested.

[53] From a practical standpoint, the best solution to settle the largest number of files as quickly as possible was to make a settlement offer that would cancel the interest on the assessments. The task force's report noted certain gaps in the Act and made several proposals that were later dropped. The processing of the taxpayers' objections had been suspended twice in order to give the task force time to do its work. The work done by the task force identified certain gaps. In order to be able to submit a concrete solution to the taxpayers concerned, the processing of the objections was suspended for a while.

[54] The next topic that the witness addressed — and he did so at length — was the settlement offer (tab 4, Exhibit I-14) and the manner in which it was submitted to the taxpayers. The offer was made in collaboration with Revenu Québec, and proved to be the offer that was most consistent with the Act.

[55] A first letter offering a settlement was sent to the representatives of the taxpayer-investors, and a second letter proposing a settlement was sent directly to the taxpayer-investors themselves, since some of them had complained that they did not receive the first offer.

[56] Mr. Huppé explained the use of the tax shelter numbers, the requirements for obtaining such numbers, and the way in which taxpayers used them. It is clear that their only purpose was to identify the partnerships and the taxpayers who had invested in them.

[57] The fact that such a number has been obtained might initially seem reassuring to a novice investor, but the mandatory statements upon assigning such a number completely discredit the argument that it amounts to an assurance that the project is legal and sound. On the contrary, those statements advise caution.

[58] Mr. Huppé was also called upon for his opinion on several subjects, such as the reason that scientific research is accorded a tax benefit.

[59] Counsel for the Appellants tried to elicit several things from his testimony, such as the lax enforcement of the Act, the reasons that several proposals were ultimately abandoned, the Agency's discomfort with all the challenges, and so forth.

Jean-Marc Boucher

[60] At the time that the events occurred, Jean-Marc Boucher, now retired, was the manager responsible for the section that audited SR&ED-related ITC claims.

[61] His testimony, which lasted almost two days, was about the context in which the partnerships in question were audited, his responsibility during these audits, and the process that led to the interpretation of the new statutory provisions in issue.

[62] Counsel for the Appellants tried, unsuccessfully, to get the witness to say that as soon as the audits began, the Agency was ready to make assessments based on the assumption that the taxpayers were "specified members" of a partnership. The witness acknowledged that this concept of "specified member" had been taken into account and that nothing was ruled out. Based on his testimony, I find that the analysts and auditors gave a great deal of thought to the issue before determining that none of the taxpayer-investors were actively engaged in their respective partnerships.

[63] The witness also stated that, after the first draft assessment was issued on the assumption that the taxpayers were specified members, Normand Lassonde complained about the conduct of an auditor, and that this is why he was allowed to make additional representations on the specific issue of specified members. The assessments were then suspended, but the audit of the various partnerships continued so that other aspects could be examined.

[64] The next question to be addressed was the obtaining of the limitation-period waivers. The testimony disclosed that the reason the Agency had them signed was to enable Normand Lassonde to continue making his representations on the "specified member" issue, since the Agency was ready to make the assessments at that time.

[65] Counsel for the Appellants tried to establish that a meeting was promised in exchange for the Appellants' waivers. With respect to this issue, the witness admitted that he told Normand Lassonde that he might be permitted to make his submissions before a committee that would deliberate in Ottawa. However, the witness clearly said that this was completely unrelated to the issue of the waivers. According to the witness, the Agency was ready to issue the assessments; thus, it was not Mr. Boucher who was requesting a suspension, but, rather, Normand Lassonde, who was insisting on a last chance to make his case in a memorandum. Mr. Boucher also stated that he did not have the authority to demand that the committee hear from Normand Lassonde; it was therefore clear that he could not guarantee anything in this regard.

[66] Indeed, with respect to this important issue of the limitation period, I noted at the hearing that I considered it very important to scrutinize all the facts surrounding those discussions.

[67] During these events, and in their wake, Normand Lassonde provided certain information to the Appellants' representatives and simultaneously made interventions of a political nature, citing the political consequences that would result from the absense of a settlement satisfactory to the Appellants. Due to this intervention, Normand Lassonde was not invited to the meeting and the files followed their course, which resulted in the issuance of the notices of assessment after the expiry of the limitation period.

[68] The contacts with the CVMQ were the last question to be dealt with. The witness maintained his position throughout his testimony: the Agency might have obtained information from the CVMQ, but this was within its investigative power under the Act. However, to his knowledge, the Agency did not provide any confidential taxpayer information whatsoever to the CVMQ. Rather, he said that the meetings were organized in such a way that the financial arrangements would be discussed in general terms, and not with a view to discussing specific files. As for the exchanges of information with Revenu Québec, they did indeed take place, and were in keeping with reciprocity agreements.

[69] On cross-examination, the witness began by specifying that the concept of "tax shelter" appeared in the Act in 1989, and by explaining that the starting point of the SR&ED partnership audits were the lists which were obtained from the Tax Avoidance Section in Ottawa, and which included the names of all the partnerships that had obtained a tax shelter number. He then explained the mandates of the different auditors in these matters, that is to say, the accounting and scientific auditors who verified whether the projects were eligible.

[70] The witness explained that, although the Télématique project had been declared eligible from a scientific perspective, the expenses incurred by the partnership had to be examined. The assessment of these expenses was not done by scientists, but, rather, by the auditor responsible for the matter, who had to check whether the expenses were reasonable and relevant.

[71] The witness noted that, from the Agency's perspective, Télématique's representative has always been Normand Lassonde, the person in authority who was able to provide explanations and documentation concerning that partnership. Mr. Lassonde was always the Agency's contact with respect to these assessments.

[72] The witness then stated that the companies connected with the partnerships in issue filed their tax returns considerably late, thereby delaying the general audits of the partnerships.

[73] Various explanations were provided with respect to the transfers of funds between these partnerships and the research companies.

[74] Several explanations were provided regarding Télématique's outlays and regarding the reasons that patently fictitious expenses were disallowed.

[75] The witness then addressed the question of Normand Lassonde's complaint about the auditor Simon Beauregard's conduct. Mr. Lassonde argued that all the evidence with respect to the existence of the partnerships was provided.

[76] Since the Agency had found that Normand Lassonde would no longer be permitting visits in the various partnerships, and since there was no evidence that the expenses were truly related to SR&ED, he prepared the draft assessments.

[77] The witnesses emphasized that the assessments were based on the fact that the members, that is to say, the Appellants, were passive partners; despite numerous requests, nothing was produced or submitted to prove otherwise.

[78] The witness stated that, following the changes to the legislation, which dated back roughly to 1985, and under which a 35% refundable tax credit was granted for the purpose of encouraging scientific research in Canada, advertising for SR&ED-related seminars began to appear in newspapers.

[79] During these seminars, the scientists explained section 2900 of the *Income Tax Regulations*, including the SR&ED project eligibility criteria, the tax credit offered, and the determination of the eligibility of SR&ED expenses.

[80] The advertisements for these seminars came from accounting firms. There was no advertising about the type of partnership to be used in order to carry out SR&ED.

[81] The Agency did do some advertising from 1989 to 1993. As for the CVMQ, it produced another advertisement, encouraging investors to be cautious about the financial arrangements.

[82] The CVMQ, a kind of watchdog in this field, advised great caution; in fact, one of the witnesses said he changed his mind after contacting the CVMQ to verify a partnership. The person who contacted the CVMQ was a young man who had no special training and was obviously of quite modest means because he would have needed to borrow money to make the investment.

[83] Mr. Boucher was Simon Beauregard's supervisor.

Simon Beauregard

[84] Simon Beauregard, a financial examiner with the scientific research department at the Agency's Montréal office, was involved in the audit of the partnerships in issue. He explained how the Télématique audit unfolded. He began by explaining that the draft assessment issued by Mr. Deslongchamps on March 12, 1992, was not a mistake, but, rather, a way to obtain more information from the investors and partnerships in question.

[85] Mr. Beauregard explained that both the auditor and the scientist share responsibility for examining the participation of partnership members, and that the auditor must provide the scientist with the requisite documents for this. In the case of Télématique, the completed questionnaires were submitted to Mr. Husson, the scientist. This is why two reports were provided by Mr. Husson, the first of which did not address the issue of passive investors.

[86] Since Mr. Lassonde did not allow the auditor and the scientist to examine the different software, it was decided, based on the scientist's report, to make the assessments on the basis that the taxpayers were "specified members" of a partnership.

[87] The file was sent to Special Investigations because there were suspicions about the relevance and genuineness of the expenses.

[88] In his questioning, counsel for the Appellants noted that Mr. Lassonde had not received the addendum to the scientist's report concerning the issue of "specified members" at the time that he made additional representations to Legislation in Ottawa. Thus, he was unable to make comments about this second report. The witness's response concerning this subject was as follows (transcript, December 5, 2005, at pages 81-82):

> [TRANSLATION]
>
> It's true that I didn't talk to him about it, but that doesn't prevent him from having his position and us having ours, do you understand? Unfavourable or not, it wouldn't have added anything to his position.
>
> . . .

> That is what I answered, Mr. Roy. Indeed, our usual procedure with files is that, upon the taxpayer's request, we would submit a copy of the science report, and the first part of that report was submitted ... um, done, but yes, the second part did not add much; it merely confirmed that the scientist had no new facts in relation to the work done by the partners. But the position on the work done by the partners was also primarily an accounting-related analysis. So I had no report to give him at that time.

[89] Counsel once again wanted to show that, in order to obtain the waivers signed by the Appellants, it was promised that Mr. Lassonde would be able to present a new memorandum in Ottawa. The witness repeated that, by the time it received the waivers, the Agency was ready to make the assessments, and that, if any promise was made, it was to send the file to Ottawa for a final request for interpretation.

[90] The cross-examination revealed that all the documents related to Normand Lassonde were confidential and were not provided to anyone.

[91] As for the Télématique partnership, the audit began with what was already in the file, namely the requisite financial statements and forms. The auditor went to the partnership's place of business, where Normand Lassonde told him that there was no property and no bank account, and that the funds went directly from the partners to the two businesses that were given the research mandates. Thus, there was no tangible property and no accounting records with which to verify the nature of the expenses claimed.

[92] After this first meeting, Mr. Beauregard asked the partners to fill out questionnaires that would demonstrate their engagement in the partnerships, but he did not obtain anything that was not already in the file.

[93] He asked for a second meeting to obtain other documents and get some explanations. He knew how the shares were bought back, where the amounts came from, where they were sent, and so forth. He was also able to see what kinds of expenses had been incurred (source code and fees).

[94] The purchases were made from Challenge, the French company. Invoices were all that was available, and Mr. Beauregard said that he saw no assets and did not know what the things purchased were used for.

[95] He asked several questions about the fact that the main expense consisted in transfers to Geyser and Teckel, the two companies to which Télématique entrusted the research.

[96] The answer that he received was that all this information had been destroyed. He then tried to obtain more information from third parties. Since invoices were the only thing that he had, he called on a scientist to help him understand the nature of the software that had allegedly been acquired.

[97] The witness then explained that half the partnership's expenses served to buy back the shares, and that the other half was spent on things for which there were only invoices and no verifiable tangible assets. When he tried to get additional explanations about these expenses, or even evidence of customs clearances, Normand Lassonde made harassment complaints about him.

[98] The witness gave the taxpayer the benefit of the doubt concerning the loss of documents, and asked the Canada Customs and Revenue Agency (as it was then called) whether the goods had cleared customs.

[99] The search ended when Mr. Lassonde refused to allow the scientist responsible for the file to verify three elements: parts acquisitions from Russia, source codes from France, and evidence concerning the work done by the partners.

[100] At that point, the witness prepared a draft assessment in February 1993 and a final notice of assessment letter in May 1993.

[101] Two losses were not accepted: the source-code purchase by Teckel for $5,290,500, and the Russian equipment purchased by Itar for $1,728,550. The expenses were disallowed because they were not substantiated, and thus, the income tax credits and losses were disallowed. Certain losses were allowed, however. For example, an amount of $480.31 per $1,000 invested was accepted.

[102] In May 1993, a letter was sent to all the partners, stating that certain losses were disallowed and that others were accepted. The letter also stated that the assessment was based on the fact that the taxpayers were specified members and were not entitled to the tax credit for research. It stated that the partnerships' losses in 1989 were only granted to the partners whose interests had not been bought back in 1989.

[103] After receiving these letters, certain taxpayers contacted the auditor in an attempt to provide more explanations. One of these taxpayers explained the circumstances of the investments to Mr. Beauregard; this is when Mr. Beauregard learned that a reimbursement of 50% of the investment was automatic, or in other words, that there was an automatic buyback.

[104] Mr. Beauregard is the auditor who compiled, on paper, all the funds transfers involving the different partnerships within the group.

[105] An investigation into Challenge, the French company that played a role in the affair, was conducted in collaboration with the French authorities. The only purpose of the partnerships' expenditures on the Teckel and Itar acquisitions was the 50% share reimbursement.

Peter Chiarelli

[106] Mr. Chiarelli is employed by the Agency as an investigator and special investigations liaison officer. He was not in any way involved in the audit of the partnerships in issue.

[107] The Appellants called him as a witness in order to show that the Agency provided the CVMQ with information derived from confidential documents. However, his testimony clearly established that he never gave the CVMQ any documents.

Normand Bergeron

[108] The witness Normand Bergeron is a securities analyst. He testified for the Respondent. He was designated an investigator for all files involving Normand Lassonde.

[109] Mr. Bergeron explained the CVMQ's role; he stated that the investigation was done primarily because the investments were made without a prospectus, without the required registration, and sometimes, without a broker.

[110] He then testified about the way in which the CVMQ obtained information concerning the investors in issue. He said that the best source of information was the financial institution that financed the investors. He said that he never obtained information from the Agency, though one must emphasize the efforts made by the Appellants' counsel to establish such a fact. Nothing of the kind was shown on a balance of probabilities.

[111] Mr. Bergeron's testimony also disclosed that nearly all the partnerships that were given a tax shelter number were investigated by the CVMQ.

Serge Dufour

[112] Serge Dufour is an investigator with the Canada Border Services Agency (CBSA). He testified about the rights and duties of taxpayers who import computer-related goods for commercial purposes. The sole duty is to declare the imports and paying duties and taxes on the goods.

[113] There are no exemptions in respect of software. A document is filled out for each import, stating the name of the exporter, the country of origin, the customs tariffs, and so forth. All this information is recorded in the Customs Commercial System.

[114] The only element that Mr. Dufour's testimony established is that certain research was done, and that the CATK, Soviet Asian Technical Cooperative, Techno-Transport 2010 Inc. and Enercytek companies and the Minirobots Partnership had no numbers in the CBSA computer system and therefore may not have imported anything into Canada.

Carole Bartolini

[115] Carole Bartolini is an auditor with the Agency. Her testimony was about her work on PC-Dollar in 1997 when she was with the Appeals Division. A summary of the transfers of the investments in the PC-Dollar partnership was adduced in evidence, and Ms. Bartolini explained each of the items in it.

[116] These details could have proven interesting if it had been determined that the project was eligible; however, the witness stated that, during the audit, scientific advisor Jacques Cayer said that the PC-Dollar project was patently ineligible.

[117] In addition, the evidence suggested that, upon investing in the partnership, the investors knew that their shares would be bought back. Just like the members of the other partnerships, the PC-Dollar partners only needed to fill out a rudimentary questionnaire.

[118] The audit in this matter resulted in an assessment that was based on the fact that the taxpayers were limited partners who were not entitled to the business loss or the investment tax credit. The decision upon the objection was no different.

Gabriel Caponi

[119] Gabriel Caponi was in charge of the Agency's SR&ED audits. In January 1993, he was part of a team that audited partnerships that were used as SR&ED tax shelters. Among other things, he was involved in the audits of the Ozmar group, but he also worked, with notable brio, on the analysis of the funds transfers for the Télématique partnership. The witness explained each of the transfers. More than half the expenses posted to the financial statements were not research-related, and were actually returned to the investors through laundering processes.

[120] It would, I think, be interesting to reproduce a portion of his testimony (transcript, December 20, 2005, at page 138):

> [TRANSLATION]
>
> . . . And the only ones who financed this whole arrangement were all the Canadian taxpayers who were not investors. Because an investor who invests a dollar gets back 50 percent from the promoter and claims a 70 percent tax refund. This doesn't cost the investor a cent; he makes 20 percent. As for the promoter, he gets the 50 percent, the other 50 percent that is funded by the government as a tax refund. So it's an arrangement that ultimately costs neither of them a thing. And I don't think this was the intent of our R&D program at the time.

Normand Lassonde

[121] Normand Lassonde began by talking about his experience, skills and career path. I must admit that this part of his testimony was impressive and even gave him credibility in the research and development field.

[122] He was well-spoken and affable, and his lingo was characterized by a special vocabulary that would tend to confirm the impression that he has a good knowledge of the subject.

[123] But things quickly went downhill when the documents to which he referred appeared in the record. On numerous occasions, his interpretations were completely at odds with the documents' contents, and the explanations were often far-fetched.

[124] Describing himself as a victim of harassment and persecution by the various auditors, he tried to dodge the questions, giving evasive answers that had nothing to do with the questions, or asserting that he did not understand the meaning of a question.

[125] He constantly made remarks and observations that were completely irrelevant, and repeated the same thing in different ways. He frequently did not want to answer and became somewhat arrogant.

[126] Among other things, I noted that when he reported to the Appellants' agents (their accounting firm) with respect to his discussions with the

Respondent's representatives, he presented things in such as way as to always blame the auditors, and led them to believe that things were going well for the Appellants.

[127] This was revealed in a particularly special way when he described one of the last interviews in which he held out real hope, thereby clearly influencing the Appellants to sign the famous waiver, which, as I said, was not a necessity, because the Respondent was in a position to issue the definitive notices of assessment at that time.

[128] Normand Lassonde thought that he was so skilled in the research and development field that he could get anyone to believe anything. He even interpreted certain questions as attacks on his competence; thus it is easy to understand why he said that he was a victim and that he was harassed and even persecuted.

[129] I do not hesitate to find that Normand Lassonde has neither a shred of credibility nor a shred of reliability. He is a person who believes that he is above everything, including the Act.

[130] Before moving on to the analysis, I want to take this opportunity to make the following remarks. Some of the testimony has helped us understand the context of the investments in issue and points to what I believe was the keystone, at least in the files about which the Appellants testified. Many clients of the accountant Mr. Kelly were professionals who had a great deal of respect for him and a great deal of confidence in him. His advice does not appear to have been doubted, and it was followed to the letter. The presence of Mr. Pichette, a tax specialist, lent support to the tax aspect and to Mr. Kelly's recommendations, at least for the clients who testified. This is a very important consideration, because the investments had a very important legal dimension, notably with respect to the financial exposure stemming from membership in partnerships the management of which was in the hands of complete strangers. Despite this potential danger, Mr. Simard, a notary, and Mr. Bilodeau, a lawyer, both of whom had knowledge in this field, neglected this legal dimension, relied on Mr. Kelly, and followed his advice.

[131] It should be specified from the outset that, during their testimony, all the auditors responsible for this matter showed themselves to be perfectly competent with respect to the auditing of SR&ED businesses.

[132] They showed that all the audits were done in accordance with accepted practices, contrary to the Appellants' complaints that the audits were tainted by laxity, oppressiveness, negligence and arrogance. The evidence adduced by the Appellants, and offered by a lawyer who clearly did a colossal amount of work, did not uncover anything that would substantiate such complaints.

[133] As for Normand Lassonde, he was able to use his knowledge to project an image of great skill, especially to a layperson, but I believe that a prudent, informed person with a modicum of knowledge related to accounting audits could have and should have quickly picked up on Mr. Lassonde's scheme and diversion tactics. It would appear that the accounting firm, through its intermediary Mr. Kelly, never realized what Mr. Lassonde was really about. Did the accounting firm, which was closely associated with the search for investors for Normand Lassonde's projects, make any efforts to assure itself of the quality of the investments? There was a total lack of evidence in this regard.

[134] Normand Lassonde was actively involved in selling the investments to the Appellants, and undoubtedly had a special relationship that he could use to his advantage.

[135] When things took a turn for the worse, the accounting firm relied on the lawyer who was retained by, and worked for, Normand Lassonde. Not only did the accounting firm appear not to have doubted Normand Lassonde, it actually chose to join him in battle and convey Mr. Lassonde's frequently distorted if not untruthful explanations to its numerous clients, including the Appellants.

[136] There was an unbreakable bond of trust between the accountants and the Appellants; the Appellants never doubted anything, and assumed that they would ultimately emerge completely vindicated from the dealings with the Agency. These are fundamental aspects of these matters, to which I will in fact come back later.

POINTS IN ISSUE

[137] There are two types of issues in the instant case: issues going to the substance of the dispute; and issues going to form and procedure.

a. The substantive issues are as follows:

    i. Has the Appellant discharged his burden of "rebutting" the Agency's determination?

    ii. In the alternative, have the conditions for obtaining an investment tax credit and a business loss deduction been met? That is to say:

        1. Was the Appellant a member of genuine partnerships? Was a business being carried on?

        2. Was the Appellant a "specified member" of these partnerships within the meaning of subsection 248(1) of the Act?

        3. Are these partnerships' scientific research and experimental development projects eligible projects? Did the partnerships truly incur scientific research and experimental development expenses? Were they truly engaged in scientific research and experimental development activities?

b. The issues of form and procedure are as follows:

    i. Did the Agency contravene the provisions of the Canadian *Charter of Rights and Freedoms* (hereinafter "the *Charter*"):

        1. Was it negligent in its examination of the Appellant's income tax return? Was its conduct oppressive, and does it bring the administration of justice into disrepute?

2. Did it violate its duty to carefully examine the 1989 and 1990 income tax returns? Was the initial notice of assessment a true assessment? Could it, in 1989 and 1990, have made an assessment based on the assumption that the Appellant was a "specified member" and thereby prevented a delay resulting in the accrual of a considerable amount of interest?

3. Did it violate a duty to inform the Appellant?

4. Were the delays in reassessing, and in responding to the notices of objection, unreasonable in the instant case (section 11(*b*) of the *Charter*)?

ii. Are the concepts of "tax shelter" and "specified member" confusing and ambiguous? In the affirmative, must they be interpreted in the taxpayer's favour to such an extent that the vacation of the assessments would be warranted?

iii. Was the limitation waiver signed by the Appellant obtained by means of false and deceptive misrepresentations by the Agency's auditors? If so, does this warrant setting aside that waiver?

iv. Did the CRA act in breach of section 241 of the Act?

v. Does the Tax Court of Canada have jurisdiction to rule on arguments and relief requested under the *Financial Administration Act*?

ANALYSIS

[138] Despite his education and knowledge with respect to the legal consequences of the commitments, Mr. Simard, the notary, described himself as a person who had little knowledge of taxation or investments; therefore, he relied on his accountant, in whom he had complete confidence.

[139] However, in his testimony, he used language that shows that he is far from being the neophyte that he portrays himself to be. He talked about capital gains, flow-through shares, interest income, tax shelters, speculative investments, safe and risky investments, and so forth.

[140] When he was asked questions aimed at assessing the circumstances of the investments that gave rise to this appeal, the notary, clearly uncomfortable by reason of his professional knowledge, regularly cited his confidence in the accounting firm with which he had been doing business for many years.

[141] Although he had the skills and experience necessary to do a significant amount of the requisite pre-investment analysis, notably with respect to the contracts, the promoters, and so forth, the Appellant insisted on the fact that he trusted the accountants, especially since one of them was a tax specialist.

[142] The Appellant also criticized the Respondent at length for failing to thoroughly verify his first income tax return in such a way that the assessment under appeal would be sent to him in the months after it was filed. He submits that if this had been done, he would have refrained from making new investments. He goes much further: he harshly blames the Respondent because the fact that he did not receive any reassessment in the months after his income tax return was filed caused him to believe that everything was in order and that he could do the same thing the following year.

[143] With respect, the evidence reveals no negligence or carelessness. In an ideal world, a thorough verification would be more appropriate; however, it would be an exaggeration, in my view, to conclude that no examination takes place. Indeed, the Act expressly provides that any tax return can be subjected to a more detailed analysis.

[144] The Appellant also complained that the Respondent failed to provide the taxpayers with adequate information, showed great carelessness, and processed the assessments very negligently.

[145] In summary, the Appellant submits that he was a reasonable person who cannot be faulted, and that the responsibility for the delays and problems falls squarely on the Respondent's shoulders. The Appellant's strategy, simply put, is that the offence is the best defence.

[146] Generally speaking, the Appellant's testimony was rather vague and even somewhat surprising for a person with his skills, which explains why he constantly repeated that he had little competence in the area of tax shelters, and that he trusted the accountants completely.

[147] However, certain facts remained so nebulous that they undermined the Appellant's credibility. Among other things, I am referring to the explanations to the effect that he expected a potentially extraordinary gain in the event of an interesting discovery, when the evidence shows that the decision to sell was made on the same day as the purchase.

[148] I am also referring to his involvement in the research, which amounted to filling out a completely insignificant questionnaire that was plainly a sham.

[149] As for Yvan Bilodeau, who is a lawyer and therefore also has legal training, he basically used the same language and gave the same explanations as Mr. Simard, except that he said that he did some checks before making his investment. However, when he was asked to specify the nature of those checks and when they were made, his answers were not very precise.

[150] Just as it did with Mr. Simard, it appears that the accounting firm played a decisive role in the decision-making and in conveying the assurance that this adventure would yield very attractive profits.

[151] When asked to provide details about what he did before deciding to make an investment in the tax shelters, Mr. Bilodeau had trouble being clear and precise, unlike the portion of his testimony in which he criticized the work leading up to the assessments.

[152] Among the unusual aspects of his testimony, I noticed that he said he did not recognize his signature on the limitation waiver form. In addition, he claimed that the investment was a promising one, even though he purchased it in mid-December and sold it on January 10. He did not recall whether the sale had been initiated on the very day of the purchase. Mr. Bilodeau, like Mr. Simard, the notary, certainly neglected the caution that his legal training demanded of him.

The Appellant's position

[153] The Appellant's arguments are mainly about form and procedure. Indeed, the Appellant's position is not buttressed by arguments that attack the substantive merits of the assessments under the Act.

[154] The substantive arguments that I have identified are as follows:

a. The investment made by the Appellant is a tax shelter governed by subsection 237.1(1) of the Act and by the definition given by Lamarre Proulx J. in *Louis Labelle v. The Queen*, 2003 TCC 905.

b. The two partnerships in which the Appellant invested, namely Télématique and Écologika, genuinely existed. He submits that that is proven by the Minister's own reliance on the fact that they existed, since an important part of his audit and analysis work was based on the idea that they were true partnerships.

[155] The Appellant's formal and procedural arguments, for their part, are numerous. They can be briefly summarized as follows:

a. The Agency did not "examine" his income tax return with all due dispatch as required by subsection 152(1) of the Act. He submits that the Agency employees could not have examined it in accordance with the provisions of the Act because they did not know the true meaning and scope of the 1988 statutory amendments.

b. The phrases "tax shelter" and "specified member" are incompatible and confusing phrases, the requirements of these provisions are impossible to meet, and only a very small number of taxpayers are entitled to the benefits associated with research and development if these phrases apply as he thinks they do.

c. There were no criteria for determining whether a partner was "active" under the definition of the phrase "specified member"; he should not be made to bear the consequences of a vague and confusing law.

d. The audit and the examination of the objection took such an inordinate amount of time that the assessments must be vacated, especially since he suffered serious harm.

e. There was no mechanism in place in 1989 to vet research and development loss and deduction claims, even summarily.

[156] Further, the Appellant submits that there have been several *Charter* breaches.

[157] He submits that the 1995 settlement offer is not a genuine offer. In his submission, its only basis was the agency's discomfort with the assessment and with the vagueness of the Act.

[158] This situation prevented the Appellant's return from being handled fairly because the Appellant was not able to split up his tax return in order to settle the facts related to the Écologika partnership while pursuing his objection with respect to the facts related to the Télématique partnership.

[159] Based on his numerous complaints, he submits that he has been treated unfairly; for these reasons, he asks the Court for relief under the *Financial Administration Act* (hereinafter "FAA").

[160] He also argues that he signed the limitation waiver by reason of misrepresentations because he was not given the true facts; in his submission, this warrants the outright cancellation of the waiver.

[161] He says that the Agency failed to keep its promises to hold meetings to discuss his file, that things were hidden from him, and that this therefore constituted misrepresentations. The Appellant also asks that the assessment affected by the limitation period and the waiver be set aside.

[162] Lastly, the Appellant submits that subsection 241(1) of the Act and subsection 8(2) of the *Privacy Act* (hereinafter "PA") were violated because the auditor sent Normand Lassonde information concerning his tax return. He submits that this warrants the exclusion of the evidence obtained in violation of those provisions, and says that the limitation waiver, among other things, was obtained as a result of that information. According to his explanations, the violations stem from the fact that the CVMQ and the Agency exchanged information about Normand Lassonde.

The Respondent's position

[163] First of all, the Respondent refers to the requirements under the Act for deducting a business loss and claiming an investment tax credit, and states that, for the following reasons, they have not been met:

a. There was no genuine partnership or business.

b. The Écologika partnership incurred no SR&ED expenses and the Télématique partnership incurred no expenses for the purpose of earning income.

c. Thus, the SR&ED projects were not eligible projects.

[164] Secondly, the Respondent states that, in any event, the Appellant is a "specified member" within the meaning of subsection 248(1) of the Act, thereby barring him from claiming these tax benefits; in addition, the Respondent emphatically denies the Appellant's claim that he was actively engaged.

[165] In the Respondent's submission, the Appellant's acts show unequivocally that his involvement was essentially passive.

[166] Thirdly, the Respondent objects to the grounds on which the Appellant seeks to have his assessments vacated. Arguing that the Appellant's arguments essentially pertain to the actions of the Minister and the Agency's employees, she submits that they have no bearing on the accuracy of the assessments. In essence, she submits that if an assessment is well-founded in law, it must be confirmed, regardless of the Minister's actions or the potential prejudice to the taxpayer.

[167] With respect to the issue of the limitation-period waivers, the Respondent's arguments fall under two categories.

a. Firstly, she submits that any argument that the waivers were obtained under false pretences and should therefore be excluded from the Respondent's evidence should have been raised by the Appellant earlier:

> [TRANSLATION]
>
> Unfortunately for [him], if this is just [his] argument, an objection to evidence must be made at the time that it is tendered, not several months later. Thus, once the document is admitted, it becomes part of the Court's record.
>
> *(Department of Justice, Respondent's Written Submissions, at page 299)*

b. Next, she states that, in any event, the Appellant has not discharged his burden of proving that the Agency made any promise whatsoever, and she asserts that the waivers were signed in order to obtain [TRANSLATION] "an interpretation of the *Income Tax Act* by another branch of Revenue Canada, namely Legislation." She submits that the Agency was

> [TRANSLATION]
>
> . . . ready to make an assessment at the time that the waivers were obtained, and all the assessments in issue would have been made within the normal assessment period if the waivers in question had not been obtained.
>
> *(Department of Justice, Respondent's Written Submissions, at page 422)*

[168] Lastly, the Respondent submits that there has been no breach of subsection 241(1) of the Act in the instant case, and asserts as follows.

a. With respect to the information disclosed to Normand Lassonde:

   i. Normand Lassonde represented the Appellants.

   ii. The Appellants ratified this representation when all of them signed the limitation-period waiver forms containing their personal information.

   iii. Exhibit I-8, which was updated by an Agency auditor but was first provided by Normand Lassonde, already contained all this information.

b. With respect to the information disclosed to the CVMQ:

i. The Appellants have not met their burden of proving such a breach.

ii. In any event, the only remedy would be a prosecution for an offence under subsection 239(2.2) of the Act. The Minister's actions cannot result in the vacation of the assessments by reason of a breach of subsection 241(1) of the Act.

Part 1: Analysis of the substantive issues

Foreword

[169] Both parties filed very voluminous written submissions. In order to avoid lengthening this judgment significantly, I will make only brief remarks about certain parts of each party's written submissions.

(i) Has the Appellant met his burden of proof?

[170] According to the rich case law in this area, including *Hickman Motors Ltd*. v. *Canada*, [1997] 2 S.C.R. 336, a decision of the Supreme Court of Canada, it is the Appellant who bears the burden of proving that all the allegations on which the Minister relied to make his assessments are wrong. I will not spend any more time on this question, especially since it was not the subject of conflicting positions or dispute.

(ii) Have the conditions of an ITC and a business loss deduction been met?

[171] Nonetheless, I believe that it is necessary to verify whether the Act's ITC eligibility and business loss deduction requirements have been met.

[172] I will address the following questions, among others: Was the Appellant a member of genuine partnerships? Did those partnerships carry on genuine businesses? Were the SR&ED projects eligible projects? Were genuine SR&ED expenses incurred? I will examine all these questions in the light of the facts in the record and the applicable law.

1. Was the Appellant a member of a genuine partnership? Was there a business?

[173] The Appellant submitted that the Minister's actions have established and proven the existence of the partnerships, because the auditors acted as though the partnerships existed.

[174] In other words, the Appellant submits that the fact that the Minister and his auditors investigated the partnerships at length automatically establishes that the partnerships were real, for, otherwise, the Minister should have determined right away that there were no true partnerships.

[175] That fact is certainly not a sufficient basis on which to hold that genuine partnerships existed. The question whether a partnership has been formed is a question of law, and the question whether it is carrying on business is a question of fact.

[176] Proving the existence of a partnership requires more than an allegation that the Minister dealt with the file as though a partnership existed.

[177] In order to assess whether partnerships were actually created, we must consider the law.

[178] I think it is important to point out that the law applicable to a partnership is the law of the province in which the partnership was supposedly created — in this instance, Quebec.

[179] Thus, in order to be entitled to the tax benefits attached to the creation of a partnership, we must refer, as stated clearly in *Backman* v. *Canada*, [2001] 1 S.C.R. 367, to the Quebec civil law in order to determine whether or not a partnership exists.

> 17 The word "partnership" is not defined in the Act. Partnership is a legal word derived from common law and equity as codified in various provincial and territorial partnership statutes. As a matter of statutory interpretation, it is presumed that Parliament intended that the word be given its legal meaning for the purposes of the Act: N.C. Tobias, *Taxation of Corporations, Partnerships and Trusts* (1999), at p. 21. **We are of the view that, where a taxpayer seeks to deduct Canadian partnership losses through s. 96 of the Act, the taxpayer must satisfy the definition of partnership that exists under the relevant provincial or territorial law.**

> This is consistent with Interpretation Bulletin IT-90, "What is a Partnership?" dated February 9, 1973. It is also consistent with the approach taken to the interpretation of the Act by a majority of this Court in *Will-Kare Paving & Contracting Ltd. v. Canada*, [2000] 1 S.C.R. 915, 2000 SCC 36, at para. 31. It follows that even in respect of foreign partnerships, for the purposes of s. 96 of the Act, the essential elements of a partnership that exist under Canadian law must be present: for a similar approach, see *Economics Laboratory (Canada) Ltd. v. M.N.R.*, 70 D.T.C. 1208 (T.A.B.).
>
> [Emphasis added.]

[180] This was also followed by Garon J. in *McKeown*, *supra*.

[181] In the case at bar, the applicable law at the time of the events was the *Civil Code of Lower Canada*, specifically article 1830 thereof. In order to understand the meaning of that provision, I believe it would helpful to quote article 2186 of the *Civil Code of Québec* as well. The relevant provisions read:

> ***Civil Code of Lower Canada***
> **1830**. It is essential to the contract of partnership that it should be for the common profit of the partners, each of whom must contribute to it property, credit, skill, or industry.
>
> ***Civil Code of Québec***
> **2186.** A contract of partnership is a contract by which the parties, in a spirit of cooperation, agree to carry on an activity, including the operation of an enterprise, to contribute thereto by combining property, knowledge or activities and to share any resulting pecuniary profits.
>
> . . .

[182] Citing *Cimon v. Ares*, J.E. 2005-201, [2005] Q.J. 103, a decision of the Quebec Court of Appeal, the Respondent identifies the following main conditions of a partnership:

> (a) a spirit of cooperation;
>
> (b) a combining of property, knowledge or activities; and
>
> (c) a sharing of pecuniary profits resulting from this combining.

[183] In the case at bar, the investors, including, quite obviously, the Appellant, never had a genuine intent to work together in a spirit of cooperation or to be part of any group that had a project designed to achieve an objective. There was never anything that resembled a business plan, nor were there even any meetings attended by the Appellant.

[184] The evidence very convincingly show that the investors did not know each other, and that they knew that their interest would be bought back in short order. The evidence even established that, in most cases, the sale process was set in motion on the very day of the purchase.

[185] The evidence in the Appellant's specific case was not as clear; however, the documentary evidence reveals that there was a very short amount of time between the purchase and the sale, so it seems to me that it is reasonable to find that, at the time of the purchase, Mr. Simard, the notary, already knew he would be selling his interest within a very short time.

[186] This rebuts the allegations that the investment had a very attractive speculative component in the event of an important discovery. Those allegations cannot stand.

[187] I should also point out an important fact in this regard: the purchase was made in December, and the sale was made the following January. Thus, there were only a few weeks between the two. The notion that a discovery was hoped or aimed for clearly does not hold water.

[188] It was the Appellant's duty to ascertain the scope of the liability resulting from his signature. He asked himself no questions, did not verify anything, and did not in any way satisfy himself that the promoter and the other partners were solvent, thereby providing further confirmation that he was actually going to get out of the investment very quickly. Thus, by his conduct, the Appellant showed a total indifference as to what could happen. It is obvious that he invested in these partnerships essentially to obtain tax benefits, and that the rest was completely incidental, if not a complete fabrication on his part.

[189] The only thing that he had to do to join these partnerships was to sign a few documents. None of this connotes a true cooperative spirit.

[190] Indeed, such an attitude completely belies a genuine cooperative intent. Rather, the conduct connotes indifference, even a total lack of interest, since the rapid buyback is undoubtedly what the Appellant was most concerned about. It sealed the deal and was the concrete and tangible aspect of the benefit.

[191] It is not sufficient to say that one is a member of a partnership; it must be shown that the elements necessary for its formation are truly present.

[192] A person with legal training would carry out an analysis and give the matter some thought before joining a partnership. In the case at bar, it appears that the anticipated tax benefit barred all rationality from the process.

[193] The Appellant, who, need I repeat, is a notary, had the knowledge and experience needed to understand the consequences of his signature, notably with regard to his personal liability, a very important consideration for any person, especially when seeking a profit or a tax benefit.

[194] Despite this obvious fact, he did absolutely nothing to familiarize himself with his partners, the financial quality of the investment, or the reliability and credibility of the person heading the project; he was simply and exclusively interested in a large and quick return. He was asked numerous questions about all the types of risks to which he was exposing himself, and his response was to retreat behind the competence and advice of the accountants.

[195] Indeed, I simply did not believe the Appellant when he tried to explain that his investment also had a speculative objective in that he also truly hoped that an exceptional invention would be discovered.

[196] His explanations about the expectation of a profit resulting from some sort of discovery were not very convincing; quite the contrary, they demonstrate that this was not a real concern at all.

[197] If it had been, he would certainly not have sold his interest so quickly, and for such a low amount. Indeed, several details suggest that the decision concerning the second step, that is to say, the sale and the buyback, was made at the very moment that the investment was made.

[198] Based on the almost total absence of information and knowledge about profits, and the very short period between the purchase and the buyback, it can be inferred, without a doubt, that the Appellant's investment had absolutely nothing to do with a genuine partnership, the essential characteristics of which are a cooperative spirit, a contribution by combining property, knowledge or activities, and, lastly, a sharing of the pecuniary profits from this combining and from carrying on business during a certain period.

[199] I am absolutely convinced that the Appellant's only true consideration was the rapid tax benefit that the transaction would enable him to obtain – a benefit which was, moreover, guaranteed by an accountant whom he trusted unquestioningly.

[200] In any event, the Appellant adduced no concrete evidence to rebut the Minister's determination that there were no partnerships. The only argument was an assertion that the Minister's acts showed that he had impliedly accepted that a partnership existed. This is in no way sufficient to rebut this determination.

[201] Indeed, the only basic elements on this point consisted in explanations with which the Appellant became visibly uncomfortable because they called his competency with respect to contractual matters into question. Indeed, the notary tried to explain the unexplainable through awkward comments which suggested that he left his contractual knowledge in the waiting room when he signed the famous enrolment documents.

[202] In the light of the foregoing, I hold that the partnerships have not been shown to exist, and were not genuine partnerships.

[203] The Respondent submitted, in the alternative, that even if I held that genuine partnerships existed, they never genuinely carried on a business. Consequently, the Respondent submits that the business loss and ITCs claimed by the Appellant must be disallowed.

[204] Once again, even though this question was equally fundamental, the Appellant adduced no real evidence to rebut this submission, and thus, my analysis will simply be an assessment of the Respondent's allegations and submissions.

[205] The Respondent submits as follows:

> [TRANSLATION]
>
> . . . the Appellants never asserted that they operated a business or incurred R&D expenses, nor do they allege that they did so personally. Rather, they always asserted, and continue to allege, that they claimed the business loss and investment tax credits as members of a partnership, in respect of the business carried on by that partnership and the expenses incurred for the purposes of the business.
>
> *(Department of Justice, Respondent's Written Submissions, at page 339)*

[206] In determining whether a taxpayer carried on a business, one must turn to *Stewart v. Canada*, [2002] 2 S.C.R. 645, where the nine justices of the Supreme Court considered the issue of reasonable expectation of profit from a business.

[207] At paragraphs 53-55, the Court stated:

> 53 We emphasize that this "pursuit of profit" source test will only require analysis in situations where there is some personal or hobby element to the activity in question. With respect, in our view, courts have erred in the past in applying the REOP test to activities such as law practices and restaurants where there exists no such personal element: see, for example, *Landry*, *supra*; *Sirois*, *supra*; *Engler v. The Queen*, 94 D.T.C. 6280 (F.C.T.D.). Where the nature of an activity is clearly commercial, there is no need to analyze the taxpayer's business decisions. Such endeavours necessarily involve the pursuit of profit. As such, a source of income by definition exists, and there is no need to take the inquiry any further.
>
> 54 It should also be noted that **the source of income assessment is not a purely subjective inquiry.** Although in order for an activity to be classified as commercial in nature, the taxpayer must have the subjective intention to profit, in addition, as stated in *Moldowan*, this determination should be made by looking at a variety of objective factors. Thus, in expanded form, the first stage of the above test can be restated as follows: **"Does the taxpayer intend to carry on an activity for profit and is there evidence to support that intention?"** This requires the taxpayer to establish that his or her predominant intention is to make a profit from the activity and that the activity has been carried out in accordance with objective standards of businesslike behaviour.

> 55 The objective factors listed by Dickson J. in *Moldowan*, at p. 486, were: (1) the profit and loss experience in past years; (2) the taxpayer's training; (3) the taxpayer's intended course of action; and (4) the capability of the venture to show a profit. As we conclude below, it is not necessary for the purposes of this appeal to expand on this list of factors. As such, we decline to do so; however, we would reiterate Dickson J.'s caution that this list is not intended to be exhaustive, and that the factors will differ with the nature and extent of the undertaking. We would also emphasize that although the reasonable expectation of profit is a factor to be considered at this stage, it is not the only factor, nor is it conclusive. The overall assessment to be made is whether or not the taxpayer is carrying on the activity in a commercial manner. However, this assessment should not be used to second-guess the business judgment of the taxpayer. It is the commercial nature of the taxpayer's activity which must be evaluated, not his or her business acumen.
>
> [Emphasis added.]

[208] Put simply, although the Supreme Court said that all investments involve the pursuit of profit, the anticipated profit must actually result from the investment.

[209] In the case at bar, the question of profit was, quite simply, excluded from the decision. Indeed, if the objective of the business had been to make a profit, the Appellant would have been able to establish that his purpose was to obtain this profit, or at least a part of it.

[210] The only profit that was being pursued was the tax benefit, which had absolutely nothing to do with the operation of a business. The situation might have been different if the Appellant had attended meetings, analyzed the financial statements, examined the objectives, and so forth.

[211] But the evidence does not support such a findings. The Appellant was offered a package deal that ended with a quick and substantial gain which essentially resulted from the lessening of his tax burden.

[212] Indeed, the tax consequences were completely unrelated to the ultimate profits or losses of the purported business.

[213] There is absolutely nothing in the Appellant's evidence – apart perhaps from vague and unsubstantiated allegations – that shows that he was pursuing any profit from the operation of the business. I will go further: the assertions, which find no support in any documentary evidence, were not very credible and were plainly unconvincing. Indeed, the documentary evidence establishing the circumstances of the purchase and sale shows the opposite.

[214] In the instant case, one can legitimately question whether the partnership was even capable of showing a profit.

[215] Indeed, the facts strongly suggest that the Appellant expressed no real interest in the partnerships' activities. Rather, this was a taxpayer who invested in partnerships that intended to do research through other companies.

[216] Was the Appellant pursuing a profit from these partnerships? All that he needed to do to become a member was to sign forms, he knew that his shares would be bought back promptly, and he never participated in a meeting of the business; in short, he was not interested in knowing what was happening with the partnership in issue.

[217] Although the Appellant stated — without great conviction, in fact — that he took into account the possibility that a great deal of profit could be made from an interesting discovery, I do not believe that he ever had the intention of deriving any profit whatsoever from any of the partnership's activities.

[218] The reason that he made his investment was to get a tax refund — an admission that was, in fact, repeated in his written submissions.

[219] This, I think, is the only possible explanation, since the amount of time between the purchase and the sale was very short, and especially since, as I have already noted a few times, I am satisfied that the decision to sell was made at the same time as the decision to purchase.

[220] In short, there are sufficient reasons to find that the Appellant did not operate a business, and this finding applies to both the Écologika and Télématique partnerships.

2. Was the Appellant a specified member of a partnership?

[221] The Respondent submits that if I had found that the Appellant was a member of genuine partnerships that were truly carrying on a business, we would then have had to consider the phrase "specified member" set out in subsection 248(1) of the Act.

[222] In her submission, if the Appellant was a partner, he was a specified member of a partnership, and therefore could not claim the business loss deduction or the ITC.

[223] This is yet another instance in which the Appellant has not responded by showing the contrary or by attempting to show that the Respondent's argument is wrong.

[224] The Appellant adduced no evidence that he was not a specified member; his arguments merely point out that:

a. The concept of specified member is not consistent with the concept of tax shelter.

b. For a taxpayer, the only interest in investing in an SR&ED partnership is to obtain the tax credit.

[225] I would note parenthetically that these arguments may hold true even if no business was truly being carried on. In fact, the Appellant himself admitted as much; this was not just the Respondent's interpretation.

[226] In order to dispose of this question, we must consider the wording of the Act. If the conditions are met, the Appellant must simply be considered a "specified member", thereby losing the right to the benefits claimed.

[227] It is important to note that the Appellant's argument that the "specified member" concept is inconsistent with the concept of a tax shelter, because it would have the effect of allowing only a very small number of taxpayers to benefit from the tax advantages created by tax shelters and would thereby lead to an absurd result, is a baseless and irrelevant analysis.

[228] In this regard, Bowman J. (as he then was) stated as follows in *LGL Ltd. v. The Queen*, No. 96-4726(IT)G, January 12, 1999, [1999] T.C.J. No. 99 (QL):

> **[57]** **Even if the result is absurd, if the words are clear the court must give effect to them.** In *Victoria City v. Bishop of Vancouver Island*, [1921] 2 A.C. 384 it was stated at pages 387-8:
>
> > In the construction of statutes their words must be interpreted in their ordinary grammatical sense, unless there be something in the context, or in the object of the statute in which they occur, or in the circumstances with reference to which they are used, to show that they were used in a special sense different from their ordinary grammatical sense. In *Grey v. Pearson* (1) Lord Wensleydale said: "I have been long and deeply impressed with the wisdom of the rule, now I believe, universally adopted, at least in the Courts of Law in Westminster Hall, that in construing wills, and indeed statutes, and all written instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no farther." Lord Blackburn quoted this passage with approval in *Caledonian Ry. Co. v. North British Ry. Co.* (1), as did also Jessel M.R. in *Ex parte Walton* (2).
>
> There is another principle in the construction of statutes specially applicable to this section. It is thus stated by Lord Esher in *Reg. v. Judge of the City of London Court* (3): **"If the words of an Act are clear, you must follow them, even though they lead to a manifest absurdity. The Court has nothing to do with the question whether the legislature has committed an absurdity.** In my opinion, the rule has always been this: -- if the words of an Act admit of two interpretations, then they are not clear; and if one interpretation leads to an absurdity, and the other does not, the Court will conclude that the legislature did not intend to lead to an absurdity, and will adopt the other interpretation." And Lord Halsbury in *Cooke v. Charles A. Vogeler Co.* (4) said: "But a court of law has nothing to do with the reasonableness or unreasonableness of a provision, except so far as it may help them in interpreting what the legislature had said." Which necessarily means that for this latter purpose it is legitimate to take into consideration the reasonableness or unreasonableness of any provision of a statute.

> Again a section of a statute should, if possible, be construed so that there may be no repugnancy or inconsistency between its different portions or members.
>
> [Emphasis added.]

[229] Thus, according to Judge Bowman, even if the interpretation of the two sections based on their ordinary meaning would lead to an absurd result, we must abide by the wording of this legislation. This interpretation does not conflict with the principles of interpretation recently confirmed by the Supreme Court in *Imperial Oil Ltd.* v. *Canada*, [2006] 2 S.C.R. 447, 2006 SCC 46, at paragraphs 24 to 30.

[230] Consequently, the argument that the interpretation propounded for the phrases "specified member" and "tax shelter" would enable only a small segment of taxpayers to invest in tax shelters has no bearing on the soundness of that interpretation.

[231] Indeed, the Appellant's analysis and submissions concerning the absurdity of the result are without basis, because several provisions of the Act apply to only a small segment of taxpayers.

[232] The phrase "specified member" is defined in subsection 248(1) of the Act as follows:

> "specified member" of a partnership in a fiscal period or taxation year of the partnership, as the case may be, means
>
> (*a*) any member of the partnership who is a limited partner (within the meaning assigned by subsection 96(2.4)) of the partnership at any time in the period or year, and
>
> (*b*) any member of the partnership, other than a member who is
>
> (i) actively engaged in those activities of the partnership business that are other than the financing of the partnership business, or
>
> (ii) carrying on a similar business as that carried on by the partnership in its taxation year, otherwise than as a member of a partnership,

> on a regular, continuous and substantial basis throughout that part of the period or year during which the business of the partnership is ordinarily carried on and during which the member is a member of the partnership;

[233] A member of a partnership can be considered a "specified" member in the following two situations:

> **Situation 1: The member is a limited partner within the meaning of subsection 96(2.4) of the Act**

[234] In this regard, I adopt the Respondent's summary of this subsection from her written submissions:

> [TRANSLATION]
>
> . . . specified members of a partnership who are limited partners include, *inter alia*, partners who, at a given time or within three years thereafter, are entitled to receive or obtain an amount or benefit, "whether by way of reimbursement, compensation, revenue guarantee, proceeds of disposition or in any other form or manner whatever" for "the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain by reason of being a member of the partnership or by reason of holding or disposing of an interest in the partnership", except to the extent that the entitlement arises by virtue of an agreement under which the taxpayer may dispose of the partnership interest for an amount not exceeding its fair market value, determined without reference to the agreement, at the time of the disposition.
>
> *(Department of Justice, Respondent's Written Submissions, at page 350)*
>
> [Emphasis added.]

[235] Indeed, in *McKeown*, *supra*, Garon C.J. (as he then was) had to address issues that are almost identical to those involved here. On the subject of specified members who are limited partners, he wrote as follows, at paragraph 407:

> . . .
>
> It follows from paragraphs 96(2.4)(*b*) and 96(2.2)(*d*) (subject to the restriction I have just referred to in the case of the latter) that a member is a limited partner where, at the time in question or within three years after that time, the member is entitled to receive or obtain, in any form or

> manner whatever, any amount or benefit referred to in paragraph 96(2.2)(*d*) if that amount or benefit is granted or to be granted "for the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain by reason of being a member of the partnership or by reason of holding or disposing of an interest in the partnership".
>
> [Emphasis added.]

[236] Certain conditions must be met in order for this provision to apply:

a. the partner must be entitled to receive a benefit;

b. in the year of the investment or within three years thereafter; and

c. the benefit must reduce the impact, in whole or in part, of any loss that the taxpayer may sustain by reason of holding or disposing of an interest in the partnership.

[237] The Appellant was a specified member and limited partner of the Écologika and Télématique partnerships. He was entitled to receive a benefit, namely, the right to have his shares bought back, in the year of the investment or within three years thereafter; indeed, the evidence clearly showed that he knew from the outset that his shares would be bought back after a short period of time. Lastly, the effect of this buyback "benefit" was to reduce the loss that he would have sustained upon disposing of his interest in the partnership.

Situation 2: He is not actively engaged, on a regular, continuous and substantial basis, in the activities of the business carried on by the partnership, and does not operate, on a regular, continuous and substantial basis, a business similar to that carried on by the partnership.

[238] Secondly, if I had not found that the Appellant was a specified member by reason of being a limited partner, I would have had to consider the second part of the definition of the phrase "specified member", and the question for determination would have been whether the Appellant was a passive specified member.

[239] The evidence in this regard does not support a determination that the Appellant was actively engaged in the activities of the partnership on a regular, continuous and substantial basis.

[240] The only evidence that the Appellant played a role in the research was that he answered a few questions that were so insignificant that it would grievously insult one's intelligence to claim that he was actively engaged in the research through such a childish exercise. That exercise was a valueless sham.

[241] The questionnaire in issue was just as insignificant as the questions used in certain contests where the future winner must answer a question such as "2+2-1 = ?" in order to be able to claim the prize.

[242] There is also a whole series of facts that support the finding that that Appellant's was an essentially passive role. While the Minister had certain hesitations concerning the concept of "specified member", this does not vitiate the determination or cancel the consequences on the pretext that the determination was tardy or that the process leading up to it was slow.

[243] Based on the facts referred to above and disclosed by the evidence, we have learned the following:

a. The Appellant's only activities with respect to the partnerships was to fill out forms that were patently meaningless.

b. The Appellant never attended any partnership meetings.

c. The Appellant was never involved in any decisions concerning the partnerships.

d. The Appellant never looked into the research activities that the partnerships were supposed to be conducting.

e. The Appellant never met the other members of the partnerships.

f. The Appellant did not even visit the partnership's place of business at any time.

g. The Appellant made no effort to check on the promoter's competence, financial reliability, expertise, etc.

[244] Under no circumstances can the Appellant be described as anything other than a passive specified member. Although the Appellant submits that this concept was not clear, he would still, at a minimum, have to prove that he always intended to be engaged in the partnership. This is an absolutely fundamental and essential element.

[245] Now, if one thing is clear, it is that the Appellant was totally indifferent to the partnership's activities, even though he said that he cared about the research activities and the possibility of a phenomenal discovery.

[246] Indeed, at the time that he made his investment, the Appellant knew that he would quickly receive half the amount invested. His accountants assured him that the deal was extraordinary.

[247] The rest was of absolutely no consequence to him, and the assertions to the contrary are simply not credible, because they are inconsistent with the manner in which the transactions took place, and are completely contradicted by the documentary evidence.

[248] At this stage, I believe it would be helpful to reproduce a portion of a recent case, *Brillon v. Canada*, No. 98-3126(IT)I, February 9, 2006, where Lamarre Proulx J. stated as follows:

> 65 Some of the Appellants complained about the fact that the Minister did not act to protect small investors [TRANSLATION] "against greedy promoters who failed to comply with the law". Some complained about the fact that the Minister issued a tax shelter number to the project. They felt that this was misleading since it suggested that the project had the Minister's approval. One Appellant stated that these tax shelters were mentioned in the newspapers and that no warning had been given by the Minister in response to the articles promoting this kind of investment. Did the Minister not have a duty to be vigilant? Another Appellant mentioned that the Minister encouraged SR&ED projects and that, as a small investor, he had wanted to participate in the research while seeking a tax benefit.

66 It is a historical fact that the reassessments of many investors in SR&ED projects have led to many complaints from taxpayers. This led the Minister to make an overall settlement proposal in 1995. That was a very rare event. I do not wish to comment on the reasons that led the Minister to make this proposal. The Appellants did not accept it. When I asked them why, they replied that they had done so on the advice of their tax advisers.

67 The role of a Court is to interpret the law as it is written. Were the Appellants specified members within the meaning of this definition in subsection 248(1) of the Act? This was the basis on which they were reassessed and on this I must render a decision.

68 What do the words "actively engaged in those activities of the partnership business" mean for a partner and what do the words "on a regular, continuous and substantial basis" mean? Parliament excluded from this meaning the act of participating in funding the partnership's business.

69 I feel that I should refer to three decisions of this Court that have considered the concept of (silent) specified member. In *McKeown v. Canada*, [2001] T.C.J. No. 236 (QL), Garon C.J. stated the following:

> 424 It is also my view that he was a specified member under paragraph (*b*) of the definition. It is true, as the Appellant argued, that a member is not a specified member just because he or she is not personally engaged in scientific research and experimental development activities, especially where that work is entrusted to a subcontractor. Paragraph (*b*) of the definition of "specified member" expressly states that an individual is a specified member if he or she is not actively engaged in the activities of the partnership business. On the basis of subparagraph (*b*)(i) of that definition, it can be concluded that an individual is a specified member where he or she does not monitor the research work, inquire about the work's progress and advancement and any fairly important administrative problems that may arise in carrying out the research, or participate in any way in decisions concerning those matters. That is indeed the case of the Appellant here. His participation in the activities of the two alleged partnerships was purely symbolic and artificial. Moreover, at the relevant time, he was not carrying on a business that satisfied the criterion set out in subparagraph (*b*)(ii) of the definition of "specified member".

70. In *Bastien v. Canada*, [2003] T.C.J. No. 771 (QL), Dussault J. stated the following:

> 28. Thus, when an opinion simply refers to "actively engaged in those activities of the partnership business," three important words have been forgotten, namely "regular, continuous and substantial." I do not believe that three meetings, two of which relate somewhat to financing, and answering two questionnaires that were also submitted as evidence, even though a serious attempt was made to answer them, as well as a few telephone communications are sufficient elements to meet the conditions set out in the definition of "specified member." However, as I said earlier, I do not think that we need to go that far.

71 In *Maslanka v. Canada*, 2004 TCC 158, Archambault J. stated the following:

> 23. In addition to being specified members as a result of their status as limited partners, they were specified members because they were not actively engaged on a regular, continuous and substantial basis in the activities of Incotel. Their only interest was to attend two meetings at which, in a ridiculous attempt to establish that they took an active part in the activities of Incotel, they were asked to fill out a questionnaire that Ms. Maslanka was not even able to recognize. I do not hesitate to conclude, as did Chief Justice Garon in *McKeown*, at paragraph 424, that the Appellants' participation in the alleged company "was purely symbolic and artificial." Furthermore, since the Appellants had practically no knowledge of Incotel's activities, they were unable to admit almost all of the facts related to this alleged company, which were assumed by the Minister in his reply to the Notice of Appeal.

72 The active engagement in the activities of a business must be considered in light of the status of a partner. We are not dealing with the engagement of an employee, of a person under contract of any kind or of a volunteer. We are dealing with the involvement of a partner in the activities of the partnership of which he or she is a member.

> 73 A partner may be actively engaged in the activities of the business of the partnership of which he or she is a member only if he or she has a certain role to play in terms of the partnership's decisions. In a business, there is usually a division between administration and operations. One partner may be confined to administration and another to operations. However, they participate in the decisions and keep each other mutually informed.
>
> [Emphasis added.]

[249] These decisions are very relevant authorities for the purpose of the instant appeal. Lamarre Proulx J. rightly said that she did not have to rule on the legitimacy of the new SR&ED provisions, but, rather, on the Act and its provisions. In other words, the role of the Tax Court of Canada is to decide whether the assessment under appeal is well-founded under the applicable provisions of the Act.

[250] At the time that the investments giving rise to the appeal were made, the phrase "tax shelter" was defined as follows in subsection 237.1(1) of the Act:

> **Definitions** – In this section,
>
> . . .
>
> "tax shelter" means any property (including, for greater certainty, any right to income) in respect of which it can reasonably be considered, having regard to statements or representations made or proposed to be made in connection with the property, that, if a person were to acquire an interest in the property, at the end of a particular taxation year that ends within 4 years after the date on which the interest is acquired,
>
> (*a*) the total of all amounts each of which is
>
> (i) an amount, or a loss in the case of a partnership interest, represented to be deductible in computing income in respect of the interest in the property (including, where the property is a right to income, an amount or loss in respect of that right that is represented to be deductible) and expected to be incurred by or allocated to the person for that particular taxation year, or
>
> (ii) any other amount represented to be deductible in computing income or taxable income in respect of the interest in the property and expected to be incurred by or allocated to the person for the particular year or any preceding taxation

> year, other than any amount included in computing a loss described in subparagraph (i),
>
> would equal or exceed
>
> (*b*) the amount, if any, by which
>
> (i) the cost to the person of the interest in the property at the end of the taxation year,
>
> would exceed
>
> (ii) the total of all amounts each of which is the amount of any prescribed benefit that is expected to be received or enjoyed directly or indirectly in respect of the interest in the property, by the person or another person with whom the person does not deal at arm's length
>
> . . .
>
> [Emphasis added.]

[251] The argument that these two concepts are not consistent with each other because they would apply only to a small number of taxpayers is not sound.

[252] The language is clear and unambiguous. Arguing that it applies only to an extremely limited number of taxpayers is certainly not a valid way to challenge the accuracy of an assessment made under the provision in issue.

[253] The issuance of a tax shelter number without prior analysis, and with alarming ease and speed, certainly does not constitute exemplary management, and is definitely not destined for any list of best management practices, since it seems clear to me that it had the potential to reassure certain taxpayers despite the text concerning the meaning and implications of the issuance of a tax shelter number.

[254] However, this was a special field, and the tax shelter number applicants were not novices. Most of them were people who had a project or were being counselled by people who had experience with tax shelters.

[255] And those people were expressly notified, in unambiguous terms, that the fact that they were being issued a tax shelter number did not shield them from an audit of the SR&ED project by the tax authorities. Moreover, the holders of tax shelter numbers had to submit a text explaining the meaning of the tax shelter number that had been obtained. In the case at bar, it appears that Normand Lassonde and the accounting firm tended to forget to mention the caveat in question, or at least, played down its importance.

[256] I believe that the evidence on the question of the issuance of the tax shelter number clearly showed that the promoters knew or should have known that the possession of such a number provided no guarantee with regard to the quality of the investment.

[257] The evidence was decisive with respect to the meaning and implications of the fact that a tax shelter number had been obtained. Not only did such a number confer no guarantees with respect to the value of the investment, it was clearly stated that a warning was to appear on all documents referring to the tax shelter number.

[258] In this regard, Lamarre Proulx J., in *Lassonde v. Canada*, 2003 TCC 715 – where the appellant was, in fact, Normand Lassonde, the promoter of the partnerships in issue in the case at bar – quoted from the letter that was given to him with the tax shelter number:

> **[169]** Regarding the scope of a tax shelter number, I feel it is appropriate to cite a passage from the letter granting a tax shelter number to SRET (Exhibit P-2), which requires the following:
>
> > [TRANSLATION]
> >
> > . . .
> >
> > Any promoter of a tax shelter shall include the following statement on all written notification by the promoter regarding the tax shelter number:
> >
> > > "The registration number assigned to the tax shelter shall be indicated on all income tax returns filed by the purchaser. Assignment of a registration number is for administrative purposes only and in no way confirms the purchaser's entitlement to deductions for losses or other amounts that may be associated with the tax shelter."

[259] It seemed clear to me that the promoters, and even the accountants, used the tax shelter number as though it constituted proof of credibility; if so, the Respondent would obviously not be responsible for the consequences of such gross negligence or deliberate wrongdoing on the part of a person who had an obvious interest in disclosing false information.

[260] Certain promoters, notably Normand Lassonde and his partners, not only violated their duty to disclose the warning, but used the tax shelter number as a guarantee of compliance, an assurance of reliability and a validation of the project.

[261] Although the fact that there are so few requirements to obtain a tax shelter number is not ideal, this deficiency does not help the Appellant's position. Indeed, this gross negligence or serious breach on the part of Normand Lassonde, who did not convey the warning about the meaning of the tax shelter number, does not in any way excuse the Appellant's lack of vigilance.

[262] Contrary to the average investor, the Appellant had a university education, which should normally have caused him to take nothing for granted, and, if he had any doubts, to take steps to ensure that his investment was sound.

[263] Moreover, the Appellant had experience with all kinds of investments. What can one say or think about the attitude and conduct of the accounting firm in this regard? Did it have an obligation to advise its client about the meaning and implications of a tax shelter number? It is not for me to answer these questions.

[264] Lastly, the Appellant says that he had the advice of his accounting firm, which counted on the services of a tax expert, with respect to this investment. All of these facts warrant the determination that the Appellant was wilfully blind, even though other actors were involved in the story.

[265] Although the evidence shows that Mr. Lassonde was a smooth talker, this in no way excuses the Appellant's lack of care, and, dare I say, his temerity.

[266] The lure of a significant and quick gain accounts for the behaviour of the Appellant, who clearly decided that the profit that he hoped to make outweighed the risk entailed, especially since everything was approved to some extent by his accountant. Could the Appellant rely on the accountant's professionalism? Should he have checked certain things himself? It is not within my province to answer these questions.

[267] The Appellant cannot shift the blame onto the Minister by asserting that the issuance of the tax shelter number misled him, when it was, in fact, the Appellant who was not informed, or who did nothing to verify the meaning of the issuance of a tax shelter number. If the Appellant insists on pinning the responsibility on someone else, perhaps a target other than the Respondent should be contemplated.

3. Are the SR&ED projects eligible projects?

[268] At this stage of this judgment, I believe that it would be appropriate to list the elementary questions that any serious investor should have asked himself or a person capable of giving reliable answers. Those questions are as follows:

a. Are these partnerships' SR&ED projects eligible projects?

b. Did the partnerships truly incur SR&ED expenses?

c. Did they truly carry out SR&ED activities?

[269] In my opinion, these are the real questions raised by these appeals. The Appellant bore the onus of proof, but his evidence on these subjects was very weak. In fact, the evidence came from the Respondent, and, on several occasions, I had the impression that the onus of proof was not on the Appellant but on the Respondent, considering how much of the relevant evidence she adduced.

[270] What of the SR&ED projects of the partnerships in issue?

[271] With respect to the Écologika partnership, the Respondent's evidence revealed that no research was done, directly or indirectly, by the companies to which it assigned research mandates. Thus, the project was quickly declared ineligible.

[272] The evidence in this regard was so decisive and conclusive that the Appellant dared not submit evidence to refute this undeniable reality.

[273] Thus, I am satisfied that no research was done by the Écologika partnership, that no SR&ED expenses were incurred, and that no SR&ED activity was engaged in; consequently, since the project was not eligible, the assessment was correct on this point, and nothing further need be said.

[274] With respect to the Télématique partnership, the evidence concerning the SR&ED aspect was lengthier and more detailed. The language that was used, the numerous descriptions, and certain connections with communications giants suggested that there might be some embryonic research, but the numerous inconsistencies and the explanations that were outlandish, to say the least, certainly do not support a finding that Télématique was engaged in serious SR&ED work. The consideration of the criteria was very telling, and the various underhanded dealings with foreign companies ultimately had just one purpose: to render any audit very difficult.

[275] As I stated at the hearing, the only true research that was done was quite clearly focussed on the implementation of a structure that could be used to exploit, if not defraud, certain careless, negligent or poorly-advised taxpayers who shared, to varying extents, a desire to lessen their tax burden.

[276] Although the SR&ED component is a very important facet of the question whether the assessments under appeal are correct, the Minister addressed the issue of SR&ED expenses as a subsidiary one, because the other conditions that the Act requires to be fulfilled in order to claim the business losses and investment tax credits were clearly not met, and this fact alone was a sufficient basis on which to make the assessments.

[277] The question whether actual SR&ED expenses were incurred to earn income is a question of fact.

[278] The Respondent relied on the following assumptions of fact:

a. Roughly 50% of the expenses claimed by the partnership were fictitious expenses to cover the costs of buying back the investors' shares.

b. Only roughly 20% of the claimed expenses consisted in amounts that were truly used for research and development; this is therefore not sufficient to constitute expenses incurred to earn income.

c. The business loss was disallowed because the expenses were not incurred for the purpose of earning income.

[279] The case law has established five criteria that must be considered in order to determine whether there were any SR&ED activities:

> 1) Was there a technological risk or uncertainty which could not be removed by routine engineering or standard procedures?
>
> 2) Did the person claiming to be doing SR&ED formulate hypotheses specifically aimed at reducing or eliminating that technological uncertainty?
>
> 3) Did the procedure chosen accord with the total discipline of the scientific method including the formulation testing and modification of hypotheses?
>
> 4) Did the process result in a technological advancement?
>
> 5) Was a detailed record of the hypotheses tested, and results kept as the work progressed?
>
> *C.W. Agencies Inc. v. Canada*, 2001 FCA 393, at paragraph 17, Respondent's Book of Authorities, tab 16.

[280] Based on these criteria, the Respondent submits that, in the case of Télématique, no SR&ED activities were engaged in. She relies, *inter alia*, on the following facts:

a. There is no evidence that SR&ED activities were carried out. It was up to the Appellant to adduce such evidence, but he did not do so.

b. Alain Dubé's testimony demonstrated the project's lack of seriousness and rigour. He used the expressions [TRANSLATION] "somewhat improvised", [TRANSLATION] "bric a brac", [TRANSLATION] "shoddily pieced together", and [TRANSLATION] "apparently put together in a hurry."

[281] Once again, the Appellant submits nothing susceptible of discrediting the Respondent's evidence, except to the extent that he attacked the testimony of the different people who testified that the two partnerships did not do any research. The Appellant also tried to show that the auditors' work was incoherent, constantly citing the administrative delays, and so forth.

[282] The evidence concerning the PC-Dollar partnership was equally decisive. The partnership did nothing that could be characterized as SR&ED.

[283] Consequently, the refusal to accept the Appellant's business losses and ITCs was entirely justified under the circumstances, since the evidence in this regard was uncontradicted and decisive.

[284] For all these reasons, the assessments are correct in law, and conform completely to the provisions of the Act. That being said, it is now time to analyze the various arguments which, in the Appellant's submission, warrant the outright vacation of the assessments that gave rise to the appeal.

Part 2: An analysis of the formal, procedural and *Charter* issues

[285] There is no doubt in my mind that the assessments are well-founded in law. We must now look at all the Appellant's arguments to determine whether the assessments must be vacated for reasons of form or procedure.

i. Did the Agency contravene the provisions of the *Charter*?

[286] I must begin by noting the contents of subsection 171(1) of the Act, which provides:

> **171.** (1) The Tax Court of Canada may dispose of an appeal by
>
> (*a*) dismissing it;
>
> (*b*) allowing it and
>
> (i) vacating the assessment,
>
> (ii) varying the assessment, or
>
> (iii) referring the assessment back to the Minister for reconsideration and reassessment.

[287] I must decide only that which is within my jurisdiction to decide.

[288] At this stage of my decision, a few words concerning *Lassonde*, *supra*, are in order. Naturally, since the facts in *Lassonde* were practically the same, Lamarre Proulx J. had to decide the same (or almost the same) issues concerning form, procedure and the *Charter*.

[289] The appellant Lassonde asked that his assessments be vacated by reason of the Minister's delays, oppression and lack of care.

[290] Lamarre Proulx J. dismissed the appeal after ruling on each of the appellant's arguments.

[291] The Federal Court of Appeal rendered a very brief but in my view entirely adequate decision in *Lassonde v. Canada*, 2005 FCA 323, confirming the limits of the Tax Court of Canada's jurisdiction. The following portion of the decision is worth reproducing:

> **[2]** Lamarre Proulx J. dismissed the motion for reasons that are set out in some 40 pages (2003 TCC 715). She determined, at paragraph 141, that an assessment cannot be vacated for lack of diligence in processing it. She relied on the decision by our Court in *Ginsberg v. Canada*, [1996] 3 F.C. 334 (C.A.) and on the decision by Bowie J.T.C.C. in *Antosko v. Canada (Minister of National Revenue - M.N.R.)*, [2000] T.C.J. No. 466 (Q.L.). Even though she could have stopped there, Lamarre Proulx J. proceeded to respond to each of the appellant's arguments and determined, at paragraph 142, that the evidence had not disclosed a lack of diligence and, at paragraph 165, that the evidence had not disclosed any acts of oppression, either.
>
> **[3]** This appeal must certainly be dismissed, if only on the basis of a **lack of jurisdiction**. A few weeks before the decision by Lamarre Proulx J. and in the months that followed, our Court pointed out on a number of occasions that the jurisdiction of the Tax Court of Canada, in the context of the appeal of an assessment, is limited to deciding whether the assessment complies with the law, based on the facts and the applicable legislation (see *Milliron v. Canada*, 2003 FCA 283; *Sinclair v. Canada*, 2003 FCA 348; *Webster v. Canada*, 2003 FCA 388 and *Main Rehabilitation Co. v. Canada*, 2004 FCA 403.)
>
> **[4]** Since the appellant challenged before us the other determinations made by Lamarre Proulx J., in the hope of ending a debate that has already been too drawn out, suffice it to say that the findings of fact which were made do not disclose any palpable and overriding error (the standard established by the Supreme Court of Canada) and therefore cannot justify our intervention.
>
> **[5]** With respect to the appellant's allegations to the effect that the Crown at the hearing of the motion filed documents into evidence illegally, and that the Judge unfairly prevented him from having all of the witnesses testify that he wanted to have testify, they are unfounded. They appear to be the result of the appellant's misapprehension of the preliminary proceedings prevailing at the hearing on the motion, which he confused with those more formal proceedings that would later govern the hearing of his appeal.

> **[6]** I would dismiss the appeal with costs in favour of the respondent, costs that I would set at $1,500.00.
>
> [Emphasis added.]

[292] This decision of the Federal Court of Appeal establishes unequivocally that the Tax Court of Canada is not the appropriate forum in which to sanction a *Charter* breach or contest an assessment based on other grounds not rooted in the Act. Consequently, I cannot, under any circumstances, vacate the assessments based on the *Charter* grounds argued by the Appellant or on any other grounds not rooted in the Act.

[293] The situation might have been different if the Appellant had argued that the provisions of the Act that gave rise to the assessments contravene the *Charter*.

[294] The Appellant also asks that the assessments be vacated on the following grounds.

1. The Agency's examination of the Appellant's income tax return was negligent. Was its conduct oppressive, and did it bring the administration of justice into disrepute?

[295] To answer these two questions, I will refer to another decision of the Federal Court of Appeal. In *Main Rehabilitation Co. Ltd. v. Canada*, 2004 FCA 403, Malone, Noël and Rothstein JJ.A. stated very clearly that the Tax Court of Canada does not have jurisdiction to vacate an assessment by reason of the Minister's actions:

> [6] In any event, it is also plain and obvious that the Tax Court does not have the jurisdiction to set aside an assessment on the basis of an abuse of process at common law or in breach of section 7 of the *Charter*.
>
> [7] As the Tax Court Judge properly notes in her reasons, although the Tax Court has authority to stay proceedings that are an abuse of its own process (see for instance *Yacyshyn v. Canada*, 1999 D.T.C. 5133 (F.C.A.)), **Courts have consistently held that the actions of the CCRA cannot be taken into account in an appeal against assessments.**

> [8] This is because **what is in issue in an appeal pursuant to section 169 is the validity of the assessment and not the process by which it is established** (see for instance *The Queen v. The Consumers' Gas Company Ltd.* 87 D.T.C. 5008 (F.C.A.) at p. 5012). **Put another way, the question is not whether the CCRA officials exercised their powers properly, but whether the amounts assessed can be shown to be properly owing under the Act** (*Ludco Enterprises Ltd. v. R.* [1996] 3 C.T.C. 74 (F.C.A.) at p. 84).
>
> [Emphasis added.]

[296] The Appellant's submission that the Minister was negligent, oppressive and biased, and thereby brought the administration of justice into disrepute, essentially relies on his interpretation of the Minister's actions.

[297] Moreover, that interpretation stems mainly from facts that are often incomplete, and from the complaints of a person who has a definite interest in distorting certain information, which explains his often inappropriate and exaggerated conclusions.

[298] Very often, the criticism was essentially based on incomplete facts that were taken out of context, and from the biased interpretation that Normand Lassonde conveyed to the accounting firm, which, in turn, may also have tended to convey half-truths in order to reassure its clients.

[299] According to the *Petit Robert* dictionary, the French word "*négligence*" means, *inter alia*, an [TRANSLATION] "unintentional wrong that consists in failing to do something that one should have done." According to *Black's Law Dictionary*, the English word "negligence" means "the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation".

[300] As for oppression, the *Petit Robert* dictionary states that it means, *inter alia*, [TRANSLATION] "the act of causing harm by abusing authority". According to *Black's Law Dictionary*, it consists of "the act or an instance of unjustly exercising authority or power".

[301] In *Rollinson v. Canada*, T-560-84, January 24, 1994, [1994] F.C.J. No. 50 (QL), the Federal Court held that in order for it to be determined that *Charter* rights have been infringed, one must show "petty minded intimidation, oppression and abuse of authority, hounding and malice."

[302] Despite the numerous attempts to discredit the testimony of the various witnesses, and the intense desire to show the incompetence, carelessness, bad faith or indifference of the various auditors, the Appellant has not succeeded in establishing that such criticism was well-founded. Rather, the numerous initiatives had the opposite effect: they showed that the files were handled seriously and competently having regard to the very special context, a context characterized, among other things, by financial repercussions for several thousand taxpayers.

[303] Indeed, the allegations were not based on any specific, concrete fact; they stem from misperceptions or misinterpretations, documents that are incomplete or were issued by people who had an interest in casting aspersions on the audit work, or, quite simply, from comments which Mr. Lassonde made and which, in my opinion, have no credibility.

[304] No negligent or oppressive conduct toward the Appellant has been shown in the case at bar. The auditors merely did their work having regard to the complexity of this matter, which was chiefly attributable to the large number of taxpayers, not its legal complexity. The legal principles were straightforward, but a lot of time was needed to obtain the information and documents essential to serious auditing work.

[305] If there was any direct communication between the Appellant and the people at the Agency who were responsible for his file, it was very rare. Most of the time, the Appellant formed an opinion of the situation based on the reports that he got from the accounting firm, which is in a rather precarious situation in the instant case – a situation attributable, in no small measure, to the fact that it got its information from Mr. Lassonde.

[306] Not only was Mr. Lassonde in a conflict of interest, he also felt persecuted, even harassed, and thus his progress reports on the files, including the Appellant's file, lacked objectivity.

[307] The information was filtered and biased; it was stated that a settlement favourable to the investors was likely, but this was simply not true. In fact, much of the testimony given by the Appellant and the other Appellants who testified seems to have been shaped by this perception, which can be summarized succinctly as follows: our file is impeccable, and our accountants, one of whom is a tax specialist, have assured us of this. The accountants' optimism resulted from the incomplete, false or distorted reports of Normand Lassonde, which were given a rather optimistic and reassuring gloss owing to the fact that their clients had mostly invested on their advice and recommendation.

[308] Mr. Lassonde set up structures the primary objective of which had nothing to do with research and development; his essential aim was to get rich based on the belief that he had found a loophole in the Act. A great salesperson and an affable man whose track record gave him a certain credibility, Mr. Lassonde won over an accountant at the firm with which the Appellants did business. Not only was this accountant convinced, he advised several of the firm's clients to come on board for the adventure.

[309] Several people, including the Appellant, were made to feel confident enough to do just that. When things went sour, Mr. Lassonde was accountable to the accountant by reason of his exceptional cooperation; he remained in contact with him and gave him regular reports, including several biased ones.

[310] As for the accounting firm, it was undoubtedly under great pressure from all the clients that it had advised to invest; thus, its natural reflex was to provide somewhat biased information so that the blame would be shifted onto someone else: the Agency, in this instance.

[311] Consequently, the information given to the Appellant and the other taxpayers was often incomplete or even false.

[312] Based on this incomplete information, the Appellant formed his own opinion and made his own judgment, which undoubtedly explains the numerous inconsistencies and the instances of confusion which were rather surprising for someone with such knowledge and skills.

[313] The evidence submitted by the Appellant does not, on a balance of probabilities, warrant a finding that the complaints are well-founded. It is possible that the Appellant brought his complaints to the wrong forum, but it is not this Court's role to analyze this aspect in any greater detail.

[314] In any event, even if the complaints had been founded, I would not have had jurisdiction to set aside the assessments solely by reason of the Minister's alleged but not proven actions.

2. Did the Agency violate its duty to examine the 1989 and 1990 tax returns with all due dispatch?

[315] This complaint raises two questions. Was the initial notice of assessment a *true assessment*? Could the Respondent have issued an assessment in 1989 and 1990 based only on the question of whether the Appellant was a "specified member", and thereby prevent a *delay that resulted in the accrual of interest* on a staggering scale?

[316] The basis of the Appellant's argument is that the Agency did not fulfil its obligation to "examine" his income tax return under sections 151, 152 and 166 of the Act.

[317] Those provisions read as follows:

> **151.** Every person required by section 150 to file a return of income shall in the return estimate the amount of tax payable.
>
> **152.**(1) The Minister shall, with all due dispatch, examine a taxpayer's return of income for a taxation year, assess the tax for the year, the interest and penalties, if any, payable and determine
>
> . . .
>
> (3) Liability for the tax under this Part is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.
>
> . . .
>
> (8) An assessment shall, subject to being varied or vacated on an objection or appeal under this Part and subject to a reassessment, **be deemed to be valid and binding notwithstanding any error**, defect or omission in the assessment or in any proceeding under this Act relating thereto.

> **166.** **An assessment shall not be vacated or varied** on appeal by reason only of any **irregularity, informality, omission or error** on the part of any person in the observation of any directory provision of this Act.
>
> [Emphasis added.]

[318] According to the Appellant, the Minister cannot argue that it was impossible to verify all the taxpayers' returns. In his submission, the Respondent, in the hours or days after his income tax return was filed, should have verified the entire contents of the return very meticulously so as to ensure that a definitive assessment could be made very quickly.

[319] The Appellant's suggested course of action would be desirable in an ideal world, but, unfortunately, and for many reasons, the real world is different. One constraint is the limited number of employees, but the most fundamental one is undoubtedly the fact that such an undertaking would have been totally impossible.

[320] Indeed, the statements made by the Appellant in his tax return depended on facts of which he had no personal knowledge. I am referring, among other things, to the expenses of the partnerships in which he invested.

[321] Were they eligible expenses, and were the documents required to verify them available? Was any genuine research work done?

[322] In other words, the examination that the Appellant wished for could only have taken place if his claims had been in keeping with the provisions of the Act and if everything over which he had no control had been absolutely reliable.

[323] Thus, on their face, the Appellant's complaints appear rather shaky.

[324] Moreover, the Act provides that a taxpayer must estimate, in his return, the amount of tax payable. Although the return must be examined by the Minister, an erroneous or incomplete assessment will have no effect on the taxpayer's duty to pay tax.

[325] Indeed, a taxpayer's liability for tax stems from the Act, not from a notice of assessment. The taxpayer must simply pay the amount of the assessment based on his own estimates and the information that he provided.

[326] The process leading up to an assessment is essentially administrative. However, the assessment itself is an intellectual act based on the statute. The taxpayer must file annual income tax returns in which he estimates the tax due. The Minister is absolutely not bound by this estimate.

[327] In fact, an error in the Minister's determination does not in any way affect the amount that the taxpayer actually owes under the Act; the amount of tax payable is determined solely by the Act.

[328] This position was adopted in *The Queen v. Imperial Oil Ltd.*, 2003 FCA 289, where the Federal Court of Appeal stated:

> [9] The Minister has adopted a practice of issuing initial assessments very quickly, based on only a mechanical review or arithmetical check. According to material in the record, this practice is founded on sound policy considerations. However, the *Income Tax Act* does not require the Minister to make an initial assessment of every income tax return prior to a full examination. The statutory obligation of the Minister is to assess "with all due dispatch." That is an elastic standard that gives the Minister sufficient discretion to determine that a particular return should not be assessed until after a detailed review. As long as the necessary review proceeds at a pace that is reasonable in the circumstances, the Minister will not be in default of the statutory obligation to assess with all due dispatch.
>
> [Emphasis added.]

[329] The Minister obviously does not have the means to do a detailed review of a tax return at the time that the taxpayer has filed it. The fact that a great many returns, if not most of them, are filed during a very short period, namely the last weeks of April, makes this all the more understandable.

[330] Taxpayers generally fill out their own returns, to the best of their ability. As several authors have stated, the tax authority cannot immediately determine precisely what its assessment of a taxpayer will be. This is precisely why the provisions concerning reassessments exist.

[331] It is also clear that the initial assessments sent to the taxpayers constituted true assessments under sections 151 and 152 of the Act.

[332] The Appellant's submission that he was somehow misled because his 1989 income tax return was not questioned, and that this entitled him to assume that everything was in perfect order, is a surprising one, especially since his tax return was prepared by accountants who gave him advice on a regular basis. That argument is quite simply outlandish.

[333] As for the Appellant's argument that the Minister did not examine his tax return with all due dispatch, Lamarre Proulx J. stated as follows in *Lassonde*, *supra*:

> [135] The notion of diligence by the Minister, required in the assessment process under the Act, has already been examined by the courts. The Federal Court of Appeal, in *Canada v. Ginsberg*, [1996] 3 F.C. 334, ruled that the failure by the Minister to act with all due dispatch in making the initial assessment, as required by subsection 152(1) of the Act, should not result in the vacation of the assessments. This subsection directs the minister, with all due dispatch, to examine a taxpayer's return, assess the tax for the year and any possible interest and penalties.
>
> [136] I cite the relevant portions of this ruling:
>
> > Bearing in mind, however, as found by the Tax Court Judge, that the Minister was late in assessing, the only question I must address is the nature of the sanction once there is a failure to exercise a duty under subsection 152(1).
> >
> > . . .
> >
> > I find no escape with the clear words of subsection 152(3), particularly the words "Liability for the tax under this Part is not affected by . . . the fact that no assessment has been made". (Le fait . . . qu'aucune cotisation n'a été faite n'a pas d'effet sur les responsabilités du contribuable à l'égard de l'impôt prévu par la présente Partie.).
> >
> > Subsection 152(8) in turn says "An assessment shall . . . be deemed to be valid and binding notwithstanding any . . . defect or omission . . . in any proceeding under this Act relating thereto." (une cotisation est réputée être valide et exécutoire nonobstant tou[t] . . . vice de forme ou omission . . . dans toute procédure s'y rattachant en vertu de la présente loi).

> Section 166, in support, states that "An assessment shall not be vacated . . . by reason only of any . . . omission . . . on the part of any person in the observation of any directory provision of this Act". (Une cotisation ne doit pas être annulée . . . uniquement par suite . . . d'omission . . . de la part de qui que ce soit dans l'observation d'une disposition simplement directrice de la présente loi).
>
> [137] The counsel for the Respondent referred to the ruling by Bowie J. of this Court in *Antosko v. Canada*, [2000] T.C.J. no 466 (Q.L.). In that case, Bowie J. had to rule on a claim similar to that of the Appellant, to the effect that the assessments should be vacated for unreasonable delay.
>
> . . .
>
> [141] As we have just seen, an assessment cannot be vacated for lack of diligence in processing an assessment. Once proceedings have begun before this Court, it is the responsibility of the Appellant to request that the case be heard.

[334] It would appear that the lack of diligence alleged by the Appellant is directly tied to the issue of unreasonable delays. That issue will be addressed in greater detail somewhat further on.

[335] As for the *staggering* interest claimed by the Minister, it should be noted that if a taxpayer underestimates the tax that he owes, he is responsible for the interest that results. This is what was provided for in subsection 161(1) of the Act, as it read in 1990:

> **161(1)** Where at any time on or before which a taxpayer is required to pay the remainder of the taxpayer's tax payable under this Part for a taxation year,
>
> (*a*) the amount of the taxpayer's tax payable for the year under this Part
>
> exceeds
>
> (*b*) the total of all amounts each of which is an amount paid at or before that time on account of the taxpayer's tax payable and applied as at that time by the Minister against the taxpayer's liability for an amount payable under this Part for the year,
>
> the person liable to pay the tax shall pay to the Receiver General interest at the prescribed rate on the excess computed for the period during which that excess is outstanding.

[336] A taxpayer's tax liability stems from the Act, and the taxpayer alone is responsible for the interest due on any unpaid amount.

[337] Moreover, the Appellant had an opportunity to reduce the tax burden associated with the interest by accepting the 1995 settlement offer. He did not accept it, and that was strictly his choice to make, but the consequences are unavoidable and he cannot hold the Minister responsible for the fact that the interest became "staggering" over time.

[338] The Appellant could have paid off or at least set aside some money to pay off the tax debts associated with the instant case.

[339] The Respondent did nothing wrong when she issued reassessments based on the assumption that the Appellant was a specified member of a partnership, and, moreover, she had no obligation to assess the Appellant on that basis right after receiving his income tax return.

3. Did the Agency violate a duty to inform the Appellant?

[340] In this regard, the Agency, in December 2000, published guide RC4213F entitled *Your Rights – In Your Dealings with the Canada Customs and Revenue Agency*, which states that taxpayers are entitled, *inter alia*, to the following:

> **Your right to complete, accurate and clear information**
>
> To help you get your entitlements and meet your obligations, we make available a variety of information. You can get information and advice from us by telephone, in person, or in writing. You are entitled to complete, accurate, and clear answers to your questions, as well as courteous and timely responses.
>
> . . .
>
> If you do not understand any information we have provided to you, we want you to contact us by telephone, in person, or in writing to let us know. We want to ensure you have the information you need in your dealings with us.
>
> . . .

> **Your right to every benefit allowed under the law**
>
> You may have to pay taxes and duties, but the law also entitles you to credits, benefits, refunds, and other entitlements. You have the right to receive the benefits to which you are entitled. We can assist you by providing the information you need.
>
> . . .

[341] What is the value of such a guide?

[342] In *Barrons v. Canada*, T-1955-95, July 22, 1996, [1995] F.C.J. No. 1780, Simpson J. of the Federal Court examined a prior version of the guide and stated:

> 6 The declaration is not a meaningless document and, in a proper case, breaches may cause a Court to issue orders correcting procedural deficiencies. However, the doctrine of legitimate expectation does not create substantive rights of the kind which can support claims for damages and declarations of the sort requested by the plaintiff in this case.
>
> [Emphasis added.]

[343] No fundamental right is created by such a guide. One cannot request to have an assessment vacated on the basis that the Agency violated a duty to inform.

[344] Initiatives like this guide merely aim to simplify taxpayers' rights and duties. Indeed, the legal value of these public outreach documents has never been seriously in issue; the legal community is in agreement that only the Act is to be taken into account in making an assessment.

4. Were the delays in issuing the reassessments and responding to the notices of objection unreasonable?

[345] The Appellant also complained about the lengthy delays that he was forced to endure, and submits that the sanction for such carelessness should be the outright vacation of the assessments.

[346] First of all, it should be noted that no finding of carelessness can be made based on the evidence submitted.

[347] This argument essentially stems from an interpretation that rests on inaccurate foundations. It is based on facts that were often distorted by the people who reported them. I am referring, among other things, to Mr. Lassonde's testimony, but also to that of the Appellant and other witnesses who often asserted that they had total confidence in what their accountant told them.

[348] I do not wish to belabour the point, but I must emphasize the fact that the Appellant clearly handed over the management of his file to the accountants, who constantly relied on Mr. Lassonde and his counsel, who, in turn, conveyed false or patently incomplete information, all the while levelling criticism at the actions of the authorities responsible for the file. Instead of making his own inquiries, the Appellant preferred to listen to accounts that quite clearly suited his position. In the beginning, greed clearly blinded the Appellant by interfering with his critical judgment, and in the end, the sheer amount of the assessment caused him to lose any capacity for objective analysis.

[349] The evidence revealed that certain people who did not possess the Appellant's skills were able to analyze the situation and arrive at a totally different decision. I will go even further: one of the Appellants admitted that if he had known what he learned at the trial, he would have reacted differently upon receiving the settlement offer. This reaction confirms the interpretation that some of the Appellants, or perhaps even all of them, were completely denied any objective reports over all those years.

[350] Is a period of roughly three years between the first assessment and the reassessment unreasonable? A careful reading of the wording of the Act is sufficient to show that it is not. In 1990, subsection 152(3.1) of the Act read as follows:

> **152 (3.1)** For the purposes of subsections (4) and (5), the normal reassessment period for a taxpayer in respect of a taxation year is
>
> (*a*) where at the end of the year the taxpayer is a mutual fund trust or a corporation other than a Canadian-controlled private corporation, the period that ends 4 years after the earlier of the day of mailing of a notice of an original assessment under this Part in respect of the taxpayer for the year and the day of mailing of an original notification that no tax is payable by the taxpayer for the year; and
>
> (*b*) in any other case, the period that ends 3 years after the day of mailing of a notice of an original assessment under this Part in respect of the taxpayer for the year and the day of mailing of an original notification that no tax is payable by the taxpayer for the year.
>
> [Emphasis added.]

[351] Based on the facts before me, the first assessment for the year 1989 was sent out on September 12, 1990, and the reassessment notice was sent out on July 18, 1993. This fully respects the intent of subsection 152(3.1) of the Act.

[352] The situation for the year 1990 is the same: the first assessment was sent out on July 29, 1991, and the reassessment was sent out on May 27, 1994.

[353] The Appellant's argument concerning this issue must fail. In this regard, the same conclusions with respect to the application of this provision were made in *Brunette v. Canada*, 98-2080(IT)I, December 30, 1999, [2001] 1 C.T.C. 2008.

[354] However, is the time that elapsed between the reassessments and the hearing of the appeal unreasonable, and, if so, is it appropriate to vacate the assessments in issue on that basis?

[355] The Appellant invokes the *Charter*, in particular section 11(*b*), which reads:

> **11.** Any person charged with an offence has the right
>
> (*b*) to be tried within a reasonable time;

[356] In *Beaudry v. Canada (Customs and Revenue Agency)*, 2001 FCTD 1347, Morneau P. stated:

> [27] Section 11(*b*) of the *Charter* states that "any person charged with an offence has the right . . . to be tried within a reasonable time" and applies to purely criminal and penal proceedings. (*R. v. CIP Inc.*, [1992] 1 S.C.R. 843; *R. v. Wigglesworth*, [1987] 2 S.C.R. 541.)

[357] Thus, the Appellant's position is erroneous. The *Charter* is of no assistance in matters before the Tax Court of Canada.

[358] Morneau P. continued:

> [30] As regards the rules of natural justice allegedly infringed by the Minister's conduct, that is by the latter's delay in ratifying the assessments, I cannot based on the facts in evidence and the state of the law see how the Minister can be blamed for a delay, still less an unreasonable one.
>
> [31] For the vast majority of the plaintiffs a large part of the time which elapsed after the filing of their notices of objection did so because of the fact that they themselves had agreed in writing to suspend their objections while the Tax Court of Canada ruled on three test cases. The lapse of time in question therefore cannot be set up against the Minister.
>
> [32] Additionally, at any time relevant to the plaintiffs who did not enter into an agreement to suspend, and any time elapsed before and after the life of the agreement for those plaintiffs who did conclude such an agreement, s. 169(1) of the *Income Tax Act* provides that a taxpayer may also file an appeal with the Tax Court of Canada at any time after 90 days have elapsed after service of the notice of objection and the Minister has not notified the taxpayer that he has vacated or confirmed the assessment or reassessed.

[33] That subsection reads:

> 169(1) Where a taxpayer has served notice of objection to an assessment under section 165, the taxpayer may appeal to the Tax Court of Canada to have the assessment vacated or varied after either
>
> (*a*) he minister has confirmed the assessment or reassessed, or
>
> (*b*) 90 days have elapsed after service of the notice of objection and the minister has not notified the taxpayer that the minister has vacated or confirmed the assessment or reassessed,
>
> but no appeal under this section may be instituted after the expiration of 90 days from the day notice has been mailed to the taxpayer under section 165 that the minister has confirmed the assessment or reassessed.

[34] Accordingly, the time elapsed cannot be transformed into a delay for which the Minister is to blame. If there had been no mutual agreement to suspend, the plaintiffs could have presented their case relying on s. 169(1).

[35] Finally, if the defendants really could be blamed for any delay, the Federal Court of Appeal in *James v. Canada (Minister of National Revenue-M.N.R.),* [2000] F.C.J. No. 2135, had to rule on a motion filed by the plaintiff at trial to vacate the assessments on the ground that the Minister had not acted as promptly as possible in reviewing the notices of objection. In that case the Court noted its position, at pp. 3 and 4 as follows, namely that the Minister's inaction cannot lead to vacating of the assessments as a remedy:

> 12 *The Income Tax Act* does not stipulate any consequence for a failure on the part of the minister to deal with a notice of objection with all due dispatch. On that question, the leading authority in this Court is *Bolton v. The Queen*, (1996), 200 N.R. 303, 96 D.T.C. 6413, [1996] 3 C.T.C. 3 (F.C.A.). In that case Mr. Justice Hugessen, speaking for the Court, said this (at page 304, N.R.):
>
> > Parliament clearly did not intend that the minister's failure to reconsider an assessment with all due dispatch should have the effect of vacating such assessment. If the minister does not act, the taxpayer's recourse is to appeal pursuant to section 169.
>
> . . .
>
> 15 If *Bolton* stands, than regardless of the reason for the ten year delay in dealing with the objections, Mr. James cannot obtain the remedy he seeks.
>
> . . .

> 20 It was argued on behalf of Mr. James that the *Bolton* interpretation of paragraph 165(3)(*b*) imposes a statutory duty on the minister but gives no effective weapon to taxpayers by which they can compel the minister to comply. It is true that under *Bolton*, a taxpayer cannot claim the right to have a reassessment vacated because it is under objection for an unduly long period of time. However, it does not follow that the taxpayer has no effective remedy. The taxpayer may appeal to the Tax Court under paragraph 169(1)(*b*), or commence proceedings in the Federal Court to compel the minister to consider the objection and deal with it. There is jurisprudence relating to such applications in the context of other income tax provisions imposing an obligation on the minister to act with all due dispatch: *Burnet v. Canada*, 98 D.T.C. 6205, [1999] 3 C.T.C. 60, [1998] F.C.J. No. 364 (QL) (F.C.A.); *Merlis Investments Ltd. v. Canada*, [2000] F.C.J. No. 1746 (QL) (F.C.T.D.).
>
> 21 We conclude that there is no basis for departing from the decision of this Court in *Bolton*, and that the Trial Judge was correct to dismiss the motion to set aside or vary the notices of reassessments.

[359] I return to *Lassonde*, where Lamarre Proulx J. specified:

> [125] The Appellant's motion is based on the ruling by the Supreme Court of Canada in *Askov*, *supra*. That ruling holds that a delay of almost two years following the preliminary hearing is clearly excessive and unreasonable.
>
> [126] I cite what seem to be the most relevant parts of the summary of the reasons written by Corey J.:
>
> > . . . s. 11(*b*) of the *Charter*, any person charged with an offence has the right to be tried within a reasonable time and this right, like other specific s. 11 guarantees, is primarily concerned with an aspect of fundamental justice guaranteed by s. 7. The primary aim of s. 11(*b*) is to protect the individual's rights and to protect fundamental justice for the accused. . . .
> >
> > The court should consider a number of factors in determining whether the delay in bringing the accused to trial has been unreasonable: (1) the length of the delay; (2) the explanation for the delay; (3) waiver; and (4) prejudice to the accused. . . . Certain actions of the accused, on the other hand, will justify delays. A waiver by the accused of his rights will justify delay, but the waiver must be informed, unequivocal and freely given to be valid.
>
> [127] This decision was rendered in the area of criminal law.

[128] The counsel for the Appellant referred to the ruling by the Supreme Court of Canada in *Blencoe v. Colombie-Britannique (Human Rights Commission)*, [2000] 2 S.C.R. 307, which clearly states that the constitutional right to be tried within a reasonable time only applies to criminal law.

[129] I quote Bastarache J., who wrote the reasons for the majority, at page 359:

> However, it must be emphasized that this statement was made in the context of s. 11(*b*) of the *Charter* which provides that a person charged with an offence has the right "to be tried within a reasonable time". The qualifier to this right is that it applies to individuals who have been "charged with an offence". The s. 11(*b*) right therefore has no application in civil or administrative proceedings. This Court has often cautioned against the direct application of criminal justice standards in the administrative law area. We should not blur concepts which under our Charter are clearly distinct. The s. 11(*b*) guarantee of a right to an accused person to be tried within a reasonable time cannot be imported into s. 7. There is no analogous provision to s. 11(*b*) which applies to administrative proceedings, nor is there a constitutional right outside the criminal context to be "tried" within a reasonable time.

[130] The ruling by the Supreme Court of Canada in *Blencoe, supra*, was rendered in a context of administrative law. It was a complaint allowed by a human rights commission and filed with a human rights tribunal. The Supreme Court ruled that section 7 of the *Charter* can extend beyond the sphere of criminal law and apply to a human rights case. However, the Court found that, in this case, section 7 of the *Charter* was not violated. The Court also indicates that there are remedies available in the administrative law context to deal with state-caused delay in human rights proceedings, such as a stay of proceedings. In this case, it ruled that such a stay of proceedings was not warranted.

[131] I cite two paragraphs from the summary of this ruling, at page 312:

> A stay is not the only remedy available for abuse of process in administrative law proceedings and a respondent asking for a stay bears a heavy burden. . . .
>
> The determination of whether a delay is inordinate is not based on the length of the delay alone, but on contextual factors, including the nature of the case and its complexity, the purpose and nature of the proceedings, and whether the respondent contributed to the delay or waived the delay.

> [132] In proceedings related to complaints made under administrative law, the determination of whether a delay is inordinate is not based on the length of the delay alone, but on contextual factors, including the nature of the case and its complexity, the purpose and nature of the proceedings, and whether the respondent contributed to the delay or waived the delay.
>
> [133] An assessment under the Act is not a complaint or an accusation. It is simply an act determining a taxpayer's debt under the Act, within a self-assessment system.
>
> [134] In the issue dealt with in this motion, there is a portion that I feel is administrative law and another that is civil procedure. The administrative law portion is that which goes from the income tax return to the assessment. From the moment when an appeal of the assessment is instituted before this Court, which is a court of justice or civil court, it is no longer administrative law, but civil law.
>
> [Emphasis added.]

[360] With these remarks, Lamarre Proulx J. also held that the time between the assessment and the hearing of the appeal did not attract the application of section 11(*b*) of the *Charter*. This is neither a criminal law matter nor an administrative law matter.

[361] The Appellant submitted that the confusion in the instant case should result in the vacation of his assessments. Should such confusion favour the taxpayer to the extent that his assessments must be vacated?

[362] Here again, I believe that the question I am seized of exceeds my jurisdiction; indeed, it is not within my power to sanction the way in which a provision of the Act is worded, or to favour a person who does not comply with the provision on the pretext that it is confusing and ambiguous.

[363] In the case at bar, the main argument is based on the fact that a few months elapsed before the Respondent made definitive determinations.

[364] The delay in question had nothing to do with ambiguity. It is mainly attributable to the unavailability of the information and documents necessary for a serious analysis; the blatant bad faith of many players, especially several of the people in charge of the so-called research and development projects; the number of assessments to process; the media coverage; the political interventions; and a clear desire to do everything possible to thwart the underhanded schemes put in place by some veritable profiteers.

[365] In addition, many delays resulted from the Appellants' representatives' slowness in providing certain documents, their systematic refusal to cooperate, the filing of unfounded complaints, and various initiatives that had nothing to do with the normal legal progress of a tax matter.

ii. Are the concepts of "tax shelter" and "specified member" confusing and ambiguous?

[366] The Appellant made numerous complaints but did not submit very extensive evidence with respect to the actual basis of the assessments; however, he argued that the statutory provisions in question were vague, confusing and ambiguous, particularly the concepts of "tax shelter" and "specified member" of a partnership.

[367] My role is merely to apply the relevant law to the facts borne out by the evidence, and to interpret that law as needed. According to the law, an assessment can be vacated only if it was made in a manner that does not comply with the provisions of the Act. Otherwise, the assessment must quite simply stand.

[368] In the case at bar, I find that the argument that cites ambiguity and confusion is both unfounded and inadmissible. The Minister did not violate his duty to examine the Appellant's income tax returns will all due dispatch.

iii. Was the waiver of the limitation period obtained through false and misleading representations?

iv. Did the Agency act in breach of section 241 of the Act?

[369] I will address both of these questions together because they are inextricably linked. Indeed, the Appellant claims that his waiver of the limitation period was obtained through false representations made by the Agency's auditors, and that this warrants setting aside that waiver. In other words, the Appellant argues that the assessment should be vacated because it is time-barred.

[370] The Appellant submits that the waivers of the limitation periods were obtained after a formal promise that Mr. Lassonde would be able to meet with a special committee to put forward his arguments about the Appellant's "specified member" status.

[371] The Appellant also submits that the limitation waivers were signed due to violations of subsection 241(1) of the Act and should therefore be excluded.

[372] The Appellant's submissions with respect to these breaches are as follows:

a. When the auditor sent Normand Lassonde information about his involvement in one of the two partnerships with a view to obtaining limitation waivers, he contravened section 241 of the Act.

b. When the Minister sent taxpayer information to the CVMQ, it contravened section 241 of the Act.

[373] I will address each of the arguments in turn, starting with the alleged breaches of section 241 of the Act. The provision reads:

> **SECTION 241: Provision of information**
>
> **(1)** Except as authorized by this section, no official shall
>
> (*a*) knowingly provide, or knowingly allow to be provided, to any person any taxpayer information;
>
> (*b*) knowingly allow any person to have access to any taxpayer information; or
>
> (*c*) knowingly use any taxpayer information otherwise than in the course of the administration or enforcement of this Act, the Canada Pension Plan, the Unemployment Insurance Act or the Employment Insurance Act or for the purpose for which it was provided under this section.

[374] There is an exception to the rule when the information was sent to the taxpayer's representative:

> **(5) Disclosure to taxpayer or on consent.** An official may provide taxpayer information relating to a taxpayer
>
> (*a*) to the taxpayer; and
>
> (*b*) with the consent of the taxpayer, to any other person.

[375] It is clear from reading this provision that a taxpayer cannot complain that taxpayer information was sent to his representative, because that is the person whom he expressly authorizes to receive information.

[376] Based on the facts shown by the evidence, the Appellant has always considered Normand Lassonde his representative, allowed him to negotiate with the tax authorities, sent the limitation waivers to him, and so forth.

[377] If one thing is clear, and, in fact, confirmed by abundant and irrefutable evidence, it is that Mr. Lassonde enjoyed the Appellant's total confidence during the period in question.

[378] When a person is given a mandate to represent someone, that person has the mandator's implied consent to obtain information on the mandator's behalf.

[379] In addition, the evidence revealed that the Appellant, after signing the limitation waivers containing personal information, actually returned them all to Normand Lassonde, thereby permitting Mr. Lassonde to be in possession of his personal information.

[380] Indeed, I will digress again to note parenthetically that it should have been clear to a person of the Appellant's intellectual calibre that Mr. Lassonde was absolutely not the appropriate person to represent him. Mr. Lassonde and the accounting firm, which the Appellant said were responsible for his investments in the two ventures, had a clear interest in stating that everything was in order. It is not very common for a fraud victim to be represented by the perpetrator, but the victim's choice in the matter must be respected, especially if he is a highly responsible individual.

[381] The evidence does not in any way support a finding that the Agency acted in breach of its duty of confidentiality.

[382] Indeed, this was not the Appellant's first assertion that was inconsistent with reality. The handling of his tax matter was supposedly tainted by dozens of instances of wrongdoing. He, however, is blameless and always acted impeccably.

[383] As for the information sent to the CVMQ, the evidence, once again, was not very clear. The Appellant claims that the CMVQ asked the tax authorities for documents concerning him, but there does not seem to be any tangible evidence of this. The Appellant's allegations in this regard are based more on intuition than specific facts.

[384] There were certainly insinuations, and questions worded as though such breaches took place, but I do not believe that the evidence has established a single concrete fact that warrants such a complaint.

[385] It is actually very surprising that the Appellant is complaining about this issue, because he himself argued that not enough information that might have protected the investors was made available. On the one hand, he acknowledges that he made almost no effort to obtain information from the Respondent, and complains that the Minister did not implement a system to disseminate information; on the other hand, he complains that the Respondent disclosed too much information to his own representatives.

[386] In any event, even if the evidence in this regard had been conclusive, the penalty would have had nothing to do with the merits of the assessment. The appropriate penalty is set out in subsection 239(2.2), which reads:

> OFFENCES AND PUNISHMENT
>
> . . .
>
> SECTION 239: Other offences and punishment.
>
> . . .
>
> (2.2) Every person who
>
> (*a*) contravenes subsection 241(1), or
>
> (*b*) knowingly contravenes an order made under subsection 241(4.1),
>
> is guilty of an offence and liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months, or to both.
>
> [Emphasis added.]

[387] The argument that the waivers of the limitation period should be set aside due to a contravention, by the Minister, of subsection 241(1), is without merit.

[388] As for the famous promises allegedly made to Mr. Lassonde, firstly, they were not well founded, and secondly, they, too, were offers made in good faith in order to give him one last chance to state his case.

[389] Indeed, the evidence revealed that the assessments were complete and ready to be sent out right then, so the waivers were absolutely not necessary in order to process the files.

[390] The evidence also showed that Mr. Lassonde quite clearly did not believe his own arguments, because he undertook a parallel political effort where, in view of the same shortage of sound legal arguments, he cited potential political fallout.

[391] In his letter to the politicians, he said that a failure to achieve a settlement satisfactory to the affected persons would spell catastrophe for their political future.

[392] These were rather unpersuasive arguments for a person who claims that his case is legally impeccable.

[393] Having been absent from the meeting – apparently because he was not invited – Mr. Lassonde had to come up with yet another set of explanations aimed at singling out someone to blame. Once again, the Appellant believed these totally false explanations.

[394] In *Lassonde*, Lamarre Proulx J. stated, at paragraphs 153 *et seq.*:

> **153.** This leads me to address the purpose and usefulness of a waiver. Taxpayers sometimes believe that they are duped in signing a waiver. In *Charron v. Canada*, [1997] T.C.J. No 303 (Q.L.), the taxpayer's accountant led him to believe that he had made a mistake by signing a waiver. I cite paragraphs 10, 13, 14 and 15:
>
> > 10. The appellant appeared for himself at the hearing. He repeated that the accountant who made up the Notice of Appeal told him that he should not have signed the waiver and that in signing it he had waived the usual assessment period, which is three years for an individual. The appellant said he signed because he felt he could trust the Minister's officer.
> >
> > . . .
> >
> > 13. In *Cal Investments Ltd. v. The Queen*, 90 D.T.C. 6556, Joyal J. of the Federal Court Trial Division explained the purpose and circumstances of such a waiver as follows:
> >
> > > A waiver of the sort at issue in this case, might be interpreted as an accommodation between the Crown and a taxpayer for the better administration of the *Income Tax Act*

> and to provide a more efficient determination of any liability thereunder. In the light of the limitations on assessments under s. 152 of the Act, the Crown requests a waiver so that it may continue its assessment or audit work in a normal administrative mode without having to worry about limitations. The taxpayer, on the other hand, knows full well that on an assessment being made, he alone has the burden of proving it wrong. That burden becomes much heavier if the Crown, facing the end of the limitation period, issues what might be termed a premature assessment which, for purposes of abundant caution, would include many sundry items which the taxpayer would have to traverse one by one. The taxpayer in those circumstances would look upon a waiver as being to his own benefit as well as the Crown's and would ordinarily comply with the Crown's request.
>
> In many cases, also, the waiver might be limited to specified issues, i.e., those where assessing or auditing processes have not been completed and which in fact remain the only outstanding items on which the Crown can ultimately decide to assess or reassess. This narrows the field of the assessment and again provides mutual advantages to both the Crown and the taxpayer.

14. In *Bailey v. M.N.R.*, 89 D.T.C. 416, at 419, Judge Rip of this Court said the following on the same point:

> A waiver is usually given by a taxpayer to the respondent when there is an unresolved dispute over one or more specific matters and the three year time period within which the respondent may reassess is fast approaching. The execution of a waiver avoids a hasty reassessment by the respondent; it provides the taxpayer with further opportunity to consider adjustments proposed by the respondent and to allow him to make further representations to support his claim.

15. The purpose of a waiver is to continue analysis of a transaction or matter concerning which the basis of the assessment is in question. It is hard to see why the accountant raised doubts in the appellant's mind as to the relevancy of signing the waiver and it should be noted that the accountant is no longer representing the appellant at the hearing. The Minister could have assessed immediately since he was still within the normal assessment period. As Joyal J. said, for the sake of efficiency it was just as well to accept this mutual accommodation rather than make a hasty assessment, which would not be in the interests of the taxpayer or of the Minister as the

> administrator of the Act. I see no reason in this case for casting any doubt on the validity of the waiver: accordingly, it is valid.
>
> **154.** In the case at bar, the evidence shows that the Minister could have made an immediate assessment. He accepted to delay the reassessment to allow for further examination of the file.

[395] Thus, I said earlier, the evidence showed that the Minister was prepared to make an assessment at the time that a meeting was allegedly promised. The delay resulted from an offer to allow Mr. Lassonde to present his arguments to a special committee that would be meeting in Ottawa.

[396] The offer was not a formal commitment, because the person who made it did not have the authority to impose Mr. Lassonde's presence at such a meeting.

[397] Indeed, upon reading Mr. Lassonde's letter about the meeting, it is easy to understand why the Appellants were eager to sign such a waiver: Mr. Lassonde suggested that his arguments were very likely to succeed, a suggestion that amounts to pure fiction. There were false and misleading representations, but the Appellant is not singling out the true culprit.

[398] For all these reasons, I hold that the manner in which the waivers were obtained was completely legitimate, having regard to the special circumstances.

v. Does the Tax Court of Canada have jurisdiction to rule on the arguments and the relief sought under the *Financial Administration Act*?

[399] The Appellant is asking me to intervene on the basis of certain provisions of the *Financial Administration Act*.

[400] In this regard, section 12 of the Tax Court of Canada Act, R.S.C. 1985, c. T-2, is very clear; I do not have jurisdiction to grant relief under the FAA. That section states as follows:

> **JURISDICTION AND POWERS OF THE COURT**
>
> **12.(1)** The Court has exclusive original jurisdiction to hear and determine references and appeals to the Court on matters arising under the *Air Travellers Security Charge Act*, the *Canada Pension Plan*, the *Cultural Property Export and Import Act*, Part V.1 of the *Customs Act*, the *Employment Insurance Act*, the *Excise Act, 2001*, Part IX of the *Excise Tax Act*, the *Income Tax Act*, the *Old Age Security Act* and the *Petroleum and Gas Revenue Tax Act*, where references or appeals to the Court are provided for in those Acts.
>
> **(2)** The Court has exclusive original jurisdiction to hear and determine appeals on matters arising under the *War Veterans Allowance Act* and the *Civilian War-related Benefits Act* and referred to in section 33 of the *Veterans Review and Appeal Board Act.*
>
> **(3)** The Court has exclusive original jurisdiction to hear and determine questions referred to it under section 51 or 52 of the *Air Travellers Security Charge Act*, section 97.58 of the *Customs Act*, section 204 or 205 of the *Excise Act, 2001*, section 310 or 311 of the *Excise Tax Act* or section 173 or 174 of the *Income Tax Act*.
>
> . . .

[401] This view was also followed by Bowman J. (as he then was) in *Hennick v. The Queen*, No. 97-1154(IT)I, June 25, 1998, 1998 CarswellNat 1175 (T.C.C.) Campbell J. in *Pacific Vending Ltd. v. The Queen*, No. 2000-3425(GST)I, May 16, 2001, 2001 CarswellNat 1047 (T.C.C.), Angers J. in *Les amusements Jolin Inc. v. The Queen*, No. 1999-2642(GT)G, September 26, 2002, 2002 CarswellNat 2530 (T.C.C.) and, lastly, by me, in *National Bank of Canada* v. *The Queen*, No. 2001-686(GST)APP, August 15, 2001, 2001 CarswellNat 1797 (T.C.C.).

[402] However, Bowman A.C.J. (as he then was) wrote the following in *Moulton v. The Queen*, 2001-2666(IT)I, February 8, 2002, [2002] T.C.J. No. 80 (QL), despite his lack of jurisdiction:

> It is obviously beyond my jurisdiction to order the Minister to obtain a remission under the *Financial Administration Act*. However, I can express the view that this would be a very appropriate case for him to do so. Otherwise, I cannot assist the appellant. I presume there is no need for me to refer the matter back to permit the Minister to implement his agreement to cancel the interest assessed.

[403] I make no recommendation of this nature, because this Court should not get involved where the alleged breaches are not attributable to the Agency.

CONCLUSION

[404] For all these reasons, the appeals are dismissed, and the Respondent shall be entitled to the costs of a single matter.

Signed at Ottawa, Canada, this 15th day of November 2007.

"Alain Tardif"

Tardif J.

Translation certified true
on this 31st day of January 2008.

François Brunet, Revisor

APPENDIX

List of Matters

Matters Involving Écologika

96-3245(IT)I – Anctil, Jean-Pierre
96-3246(IT)I – Aubé, Alain
96-4344(IT)G – Bilodeau, Yvan
97-24(IT)G – Brochu, Marie-Marthe
96-4336(IT)I – Delisle, Guy
96-4334(IT)G – Drolet, Guy
96-3315(IT)I – Duplain, Denis
96-4339(IT)G – Fleury, Gilles
96-3349(IT)I – Guillemette, Denis
96-3367(IT)I – Kelly, Gilles
96-3365(IT)I – Langlois, Guy
96-3369(IT)I – Lapointe, Clément
96-3316(IT)I – Lapointe, François
96-3317(IT)I – Lessard, Rémy
96-3320(IT)I – Pichette, Michel
96-3261(IT)I – Poirier, Lucie
96-3303(IT)I – Robitaille, Gérald
96-3305(IT)I – Ross, Louis-Marie
96-3373(IT)I – Simard, Chantal
96-3371(IT)I – Simard, Jean
96-3372(IT)I – Simard, Jules-Fabien
96-3370(IT)I – Saint-Laurent, Nicole
96-3234(IT)I – St-Pierre, Daniel
96-3237(IT)I – Thivierge, Jean-Claude
96-3238(IT)I – Tourville, Yves
96-3241(IT)I – Vézina, Louis
96-3240(IT)I - Villeneuve, Denis

Matters Involving Télématique

96-3152(IT)I – Anctil, Jean-Pierre
96-3139(IT)I – Aubé, Alain
96-3114(IT)I – Bilodeau, Yvan
96-3175(IT)I – Brochu, Marie-Marthe
96-3096(IT)I – Delisle, Guy
96-3099(IT)I – Dufour, Robert
96-3106(IT)I – Duplain, Denis
96-3145(IT)I – Fleury, Gilles
96-3104(IT)I – Guillemette, Denis
96-3103(IT)I – Kelly, Gilles
96-3173(IT)I – Langlois, Guy
96-3140(IT)I – Lapointe, Clément
96-3192(IT)I – Lessard, Rémy
96-3176(IT)I – Paré, Yvon
96-3171(IT)I – Pichette, Michel
96-3134(IT)I – Poirier, Lucie
96-3167(IT)I – Robitaille, Gérald
96-3166(IT)I – Ross, Louis-Marie
96-3149(IT)I – Simard, Chantal
96-3102(IT)I – Simard, Jean
96-4347(IT)G – Simard, Jules-Fabien
96-3094(IT)I – Saint-Laurent, Nicole
96-3115(IT)I – St-Pierre, Daniel
96-3119(IT)I – Sutherland, Steve
96-3122(IT)I – Tourville, Yves
96-3162(IT)I – Vézina, Louis
96-3118(IT)I – Villeneuve, Denis

List of Joined Matters

Écologika
2004-2130(IT)I – Aubé, Alain
2004-2795(IT)I – Drolet, Guy

Télématique
2004-2789(IT)I – Paré, Yvon
2004-3915(IT)I – Sutherland, Steve

PC-DOLLAR
2004-633(IT)I – Fleury, Gilles
2004-120(IT)I – Lessard, Rémy
2004-2148(IT)I – Poirier, Lucie

Télématique and Écologika
2004-2131(IT)I – Aubé, Alain

PC-Dollar and Télématique
2004-375(IT)I – Langlois, Guy

PC-Dollar and Écologika
2004-2129(IT)I – Laporte, François

CITATION:	2006TCC540
COURT FILE NOS.:	96-3094(IT)I, 96-3096(IT)I, 96-3099(IT)I, 96-3102(IT)I, 96-3103(IT)I, 96-3104(IT)I, 96-3106(IT)I, 96-3114(IT)I, 96-3115(IT)I, 96-3118(IT)I, 96-3119(IT)I, 96-3122(IT)I, 96-3134(IT)I, 96-3139(IT)I, 96-3140(IT)I, 96-3145(IT)I, 96-3149(IT)I, 96-3152(IT)I, 96-3162(IT)I, 96-3166(IT)I, 96-3167(IT)I, 96-3171(IT)I, 96-3173(IT)I, 96-3175(IT)I, 96-3176(IT)I, 96-3192(IT)I, 96-3234(IT)I, 96-3237(IT)I, 96-3238(IT)I, 96-3240(IT)I, 96-3241(IT)I, 96-3245(IT)I, 96-3246(IT)I, 96-3261(IT)I, 96-3303(IT)I, 96-3305(IT)I, 96-3315(IT)I, 96-3316(IT)I, 96-3317(IT)I, 96-3320(IT)I, 96-3349(IT)I, 96-3365(IT)I, 96-3367(IT)I, 96-3369(IT)I, 96-3370(IT)I, 96-3371(IT)I, 96-3372(IT)I, 96-3373(IT)I, 96-4334(IT)G, 96-4336(IT)G, 96-4339(IT)G, 96-4344(IT)G, 96-4347(IT)G, 97-24(IT)G, 2004-120(IT)I, 2004-375(IT)I, 2004-633(IT)I, 2004-2129(IT)I, 2004-2130(IT)I, 2004-2131(IT)I, 2004-2148(IT)I, 2004-2789(IT)I, 2004-2795(IT)I and 2004-3915(IT)I.
STYLES OF CAUSE:	Nicole St-Laurent, Guy Delisle, Robert Dufour, Jean Simard, Gilles Kelly, Denis Guillemette, Denis Duplain, Yvan Bilodeau, Daniel St-Pierre, Denis Villeneuve, Steve Sutherland, Yves Tourville, Lucie Poirier, Alain Aubé, Clément Lapointe, Gilles Fleury, Chantal Simard, Jean-Pierre Anctil, Louis Vézina, Louis-Marie Ross, Gérald Robitaille, Michel Pichette, Guy Langlois, Marie-Marthe Brochu, Yvon Paré, Remy Lessard, Jean-Claude Thivierge, François Lapointe, Jules-Fabien Simard and Guy Drolet v. Her Majesty the Queen
PLACE OF HEARING:	Québec, Quebec
DATES OF HEARING:	October 24, 25, 26 and 31, 2005, November 1, 2, 3, 28, 29 and 30, 2005 and December 1, 5, 6, 7, 8, 19 and 20, 2005
REASONS FOR JUDGMENT BY:	The Honourable Justice Alain Tardif
DATE OF JUDGMENTS:	November 15, 2007
APPEARANCES:	
Counsel for the Appellants:	Normand Roy
Counsel for the Respondent:	Pierre Cossette, Dany Leduc and Philippe Dupuis
COUNSEL OF RECORD:	
For the Appellants:	
Name and City:	Normand Roy, Saint-Augustin, Quebec
For the Respondent:	John H. Sims, Q.C. Deputy Attorney General of Canada Ottawa, Canada