

Docket: 2007-3101(IT)I

BETWEEN:

MEIR LEVY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Appeals heard on April 17, 2008 and decision delivered orally,  
on the same day, at Montreal, Quebec.

Before: The Honourable Justice Lucie Lamarre

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: Vlad Zolia

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**JUDGMENT**

The appeals from the assessments made under the *Income Tax Act* ("ITA") for the 2002 and 2003 taxation years are allowed, on the following basis:

For the 2002 taxation year, the amount of undeclared income is \$33,000 instead of \$55,321;

For the 2003 taxation year, the amount of undeclared income is \$15,000 instead of \$39,518.

The penalties assessed pursuant to subsection 163(2) of the *ITA*, and the interest, shall will be recalculated accordingly.

Signed at Ottawa, Canada, this 30th day of April 2008.

"Lucie Lamarre"

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Lamarre J.

Citation: 2008TCC273  
Date: 20080430  
Docket: 2007-3101(IT)I

BETWEEN:

MEIR LEVY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR JUDGMENT**

Lamarre J.

[1] The Minister of National Revenue ("Minister") reassessed the appellant for undeclared income in the amounts of \$55,321 for 2002 and \$39,518 for 2003, with interest and penalties pursuant to subsection 163(2) of the *Income Tax Act* ("ITA"). The appellant was reassessed following an audit of his banking records. It was found that he had deposited in his bank accounts amounts substantially greater than the gross business income reported by him.

[2] The Minister was of the opinion that during the audit the appellant did not provide any satisfactory explanation as to the source or origin of these deposits.

[3] The appellant deposited \$85,586 in his bank account in 2002 and \$69,551 in 2003 (Exhibit R-1).

[4] The appellant, together with his wife, prepared a document (Exhibit R-4) showing that of these deposits, \$51,981 in 2002 and \$38,715 in 2003 (Exhibits R-4, R-10, R-11, R-12 and R-13) represented cheques received for work he performed pursuant to business contracts.

[5] The appellant filed a letter from his mother-in-law stating that she gave him \$5,000 per year (Exhibit A-5); this money is not taxable. The deposits also included tax refunds of \$1,060 in 2002 and \$1,784 in 2003, which are not taxable either. In addition, the appellant received approximately \$5,000 per year from his wife's student loans, likewise a non-taxable amount (Exhibit R-4).

[6] Counsel for the respondent accepted the fact that the appellant deposited earnings from gambling of \$11,825 in 2002 and \$14,275 in 2003, which earnings are not taxable. If we subtract the non-taxable amounts from the total deposits, we are left with amounts of \$62,701 for 2002 and \$43,492 for 2003 that could be deposits of taxable income. We have seen above that at least \$51,981 in 2002 and \$38,715 in 2003 is attributable to the appellant's earnings from work. The appellant did not bring substantive evidence to show that the aforementioned balances for the two years were non-taxable income. I therefore conclude that the amounts of \$62,701 in 2002 and \$43,492 in 2003 were taxable income for those years.

[7] The appellant declared \$29,205 for 2002 and \$28,250 for 2003 in filing his tax returns for those years. Consequently the difference between these amounts and the above-determined taxable income is undeclared income, that is, rounding up the figures, \$33,000 of undeclared income in 2002 and \$15,000 in 2003. The interest and the penalties, the latter imposed pursuant to subsection 163(2) of the *ITA*, will be recalculated accordingly.

Signed at Ottawa, Canada, this 30th day of April 2008.

"Lucie Lamarre"

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Lamarre J.

CITATION: 2008TCC273

COURT FILE NO.: 2007-3101(IT)I

STYLE OF CAUSE: MEIR LEVY  
v. HER MAJESTY THE QUEEN

PLACE OF HEARING: Montreal, Quebec

DATE OF HEARING: April 17, 2008

REASONS FOR JUDGMENT BY: The Honourable Justice Lucie Lamarre

DATE OF JUDGMENT: April 30, 2008

APPEARANCES:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Vlad Zolia

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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