Docket: 2008-354(IT)I

BETWEEN:

ALLAN E. FIELD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on November 4, 2008, at Vancouver, British Columbia

Before: The Honourable Justice Valerie Miller

Appearances:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Sara Fairbridge

JUDGMENT

The appeals from the reassessments made under the *Income Tax Act* for the Appellant's 2003, 2004 and 2005 taxation years are dismissed in accordance with the attached Reasons for Judgment.

Signed at Halifax, Nova Scotia, this 24th day of November 2008.

"V.A. Miller"

V.A. Miller, J.

Citation: 2008TCC627
Date: 20081124
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BETWEEN:

ALLAN E. FIELD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

V.A. Miller, J.

[1] The Appellant appeals from a reassessment of his 2003, 2004 and 2005 taxation years wherein the Minister of National Revenue (the "Minister") disallowed expenditures of $4,193.75, $12,833.44 and $11,996.56 which had been claimed against rental income.

[2] The expenditures consisted of the following:

	2003	2004	2005
Interest	$3,063.54	$1,932.16	$3,494.82
Travel	1,130.21	2,688.74	2,267.92
Maintenance & Repairs	_____	8,212.54	6,233.82
Total	$4,193.75	$12,833.44	$11,996.56

[3] In 1994 the Appellant acquired land at Sun Peaks, B.C. with the hope that this area would become a successful ski region like Whistler. He built a ski condo (the "Property") at a cost of $183,276 which he offered for rent.

INTEREST

[4] During the relevant period, the Appellant claimed and was allowed to deduct the entire amount of the interest that he paid on the mortgage of the Property. He also claimed the interest amounts stated in paragraph 2 above.

[5] It was his evidence that the cost of the Property exceeded the amount of the mortgage and he used his credit cards and line of credit to finance all other costs associated with Property. The additional interest expenditures that were claimed were the interest amounts on his credit cards and his line of credit.

[6] In support of his claim the Appellant submitted a letter from a financial advisor who advised that the Appellant's line of credit had been increased and various credit cards had been paid off. The letter was dated April 21, 2004. On the letter, the Appellant made a chart with two columns which he titled "Sun Peak" and "Personal". He then estimated the amounts for each column.

[7] The relevant provision of the *Income Tax Act* reads:

> **20. (1) Deductions permitted in computing income from business or property** -- Notwithstanding paragraphs 18(1)(*a*), (*b*) and (*h*), in computing a taxpayer's income for a taxation year from a business or property, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto
>
> > (c) **interest** -- an amount paid in the year or payable in respect of the year (depending upon the method regularly followed by the taxpayer in computing the taxpayer's income), pursuant to a legal obligation to pay interest on
> >
> > > (i) borrowed money used for the purpose of earning income from a business or property (other than borrowed money used to acquire property the income from which would be exempt or to acquire a life insurance policy),

[8] The letter submitted by the Appellant is insufficient for me to conclude that any of the amounts were borrowed to earn income from property. As well, there was nothing in the letter which verified any amount of interest. There is only the Appellant's estimate of interest. This is insufficient to substantiate his claim for interest beyond what was already allowed by the Minister.

[9] To claim a deduction for interest, the Appellant must be able to submit documents that would show that he paid the interest on money borrowed to earn

income from property. The Appellant must also be able to show the exact amount of the interest he paid.

TRAVEL

[10] The Appellant stated that both the Property and its contents are aging and both require repairs. There are no persons on the mountain who could do the repairs and he had to do them himself. During the period, he lived in South Surrey and he traveled the approximately 400 kilometers to the Property to do all repairs and to collect the rent.

[11] The evidence showed that the Appellant claimed expenses for 10 visits to the Property in 2003; 22 visits to the Property in 2004; and, 19 visits to the Property in 2005.

[12] There were no documents to support the amounts claimed by the Appellant. There were no details given of the numerous trips the Appellant made to the Property. It is his personal choice to live in South Surrey and to own a rental in Sun Peaks. The cost of his travel to and from the Property is personal and is not deductible.

[13] It is noteworthy to refer to the decision in *Njenga v. R.*[1], at paragraph 3 where it is said:

> The Income tax system is based on self monitoring. As a public policy matter the burden of proof of deductions and claims properly rests with the taxpayer. The Tax Court Judge held that persons such as the Appellant must maintain and have available detailed information and documentation in support of the claims they make. We agree with that finding. Ms. Njenga as the Taxpayer is responsible for documenting her own personal affairs in a reasonable manner. Self written receipts and assertion without proof are not sufficient.

REPAIRS & MAINTENANCE

[14] The Appellant was allowed a deduction for repairs and maintenance expenses in the amounts of $4,978.91, $7,387.41 and $9,554.24 in 2003, 2004 and 2005 respectively. The Minister disallowed the amounts in paragraph 2 above as it was his position that they were capital outlays.

[15] In 2004, the items purchased were the installation of a gas line, gas furnace, hot water heater, sofa, loveseat, refrigerator and dryer. In 2005 the amount claimed included the cost of a hot tub.

[16] The test often quoted when deciding whether an expenditure should be capitalized or expensed was stated by Viscount Cave in *British Insulated & Helsby Cables Ltd. v. Atherton* (1925), [1926] A.C. 205 (U.K. H.L.) at 213 as follows:

> ...when an expenditure is made, not only once and for all, but with a view to bringing into existence an asset or an advantage for the enduring benefit of a trade, I think that there is very good reason (in the absence of special circumstances leading to an opposite conclusion) for treating such an expenditure as properly attributable not to revenue but to capital.

[17] Although all of the expenditures in the present case may not have been made "once and for all" they all have the character of capital expenditures as they bring into existence an asset for the enduring benefit of the Property. All of the expenditures are major with respect to the rental Property. All of the expenditures are different from ordinary annual expenditures[2]. The useful life of all the items purchased will be a relatively long time.

[18] The appeal is dismissed.

Signed at Halifax, Nova Scotia, this 24th day of November 2008.

"V.A. Miller"

V.A. Miller, J.

[1] [1997] 2 C.T.C. 8 (FCA)
[2] *Minister of National Revenue v. Haddon Hall Realty Inc.* (1961), 62 D.T.C. 1001 (S.C.C.)

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APPEARANCES:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Sara Fairbridge

COUNSEL OF RECORD:

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Name:

Firm:

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