

Tax Court of Canada



Cour canadienne de l'impôt

Docket: 2009-1371(IT)I

BETWEEN:

PAUL AUBIN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

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Appeal heard on common evidence with the appeals of  
*Paul Aubin, 2009-1372(IT)I; 2009-1373(IT)I*  
on October 20, 2009, at Montréal, Quebec

Before: The Honourable Justice Paul Bédard

Appearances:

Counsel for the appellant: Daniel Gilbert  
Counsel for the respondent: Simon Olivier de Launière

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**JUDGMENT**

The appeal from the reassessment made under the *Income Tax Act* for the 2004 taxation year is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 23rd day of November 2009.

"Paul Bédard"

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Bédard J.

BETWEEN:

PAUL AUBIN,

Appellant,

and

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Appearances:

Counsel for the appellant: Daniel Gilbert  
Counsel for the respondent: Simon Olivier de Launière

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**JUDGMENT**

The appeal from the reassessment made under the *Income Tax Act* for the 2004 taxation year is dismissed in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 23rd day of November 2009.

"Paul Bédard"

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Bédard J.

BETWEEN:

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Before: The Honourable Justice Paul Bédard

Appearances:

Counsel for the appellant: Daniel Gilbert  
Counsel for the respondent: Simon Olivier de Launière

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**JUDGMENT**

The appeal from the reassessment made under the *Income Tax Act* for the 2003 taxation year is allowed and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment so as to reduce the appellant's unreported income by \$2,000, with consequential adjustments to the penalties and interest, in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 23rd day of November 2009.

"Paul Bédard"

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Bédard J.

Citation: 2009 TCC 600  
Date: 20091123  
Dockets: 2009-1371(IT)I,  
2009-1372(IT)I,  
2009-1373(IT)I

BETWEEN:

PAUL AUBIN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

### **REASONS FOR JUDGMENT**

Bédard J.

[1] These are appeals heard on common evidence. The appellant is appealing from reassessments established against it for the 2003, 2004 and 2005 taxation years.

[2] On February 10, 2009, in docket 2009-1373(IT)I, the Minister of National Revenue (the Minister) established a reassessment against the appellant for the 2003 taxation year, according to which he determined, using the net worth method, that the appellant had unreported income of \$30,406, according to the details provided in the attached Appendix A, and imposed a penalty of \$263.39 in accordance with subsection 163(2) of the Income Tax Act (the Act). In making the reassessment, the Minister relied on the following assumptions of fact:

[TRANSLATION]

- a. The appellant's sole proprietorship of "Serloc Informatique," of which the economic activity was related to the sale, service, and rental of IT products, began in 1996;

- b. On May 27, 2003, the appellant incorporated the company as "Serloc Inc." so as to modify its legal form of organization;
- c. The appellant is the majority shareholder of "Serloc Inc.;"
- d. A tax audit revealed that the appellant's personal expenses were not commensurate with the company's reported income and the alleged loss incurred from operating his business;
- e. The appellant's cost of living was established primarily through the withdrawals from the couple's bank accounts;
- f. For the period from January 1, 2003, to December 31, 2003, the net worth audit identified the following unreported income amount of \$30,406;
- g. The details of the unreported income are as follows:

	<u>2003</u>
(i) personal expenses Jeep Cherokee (50%)	\$2,987
(ii) unreported income	<u>\$27,419</u>
	<u>\$30,406</u>
(iii) At the objection stage, the Minister increased the shares dated December 31, 2002, by \$22,558, thereby reducing the 2003 total income gap from \$52,964 to \$30,406 \$ (see Appendix);	
(iv) During the period in issue, the appellant's wife did not file a return of income for the 2003 taxation year;	

- h. During the period in issue, the Minister determined that the Jeep Cherokee was used for personal purposes 50% of the time.

[3] On June 15, 2007, in docket 2009-1371(IT)I, the Minister of National Revenue (the Minister) established a reassessment against the appellant for the 2004 taxation year, according to which he determined, using the net worth method, that the appellant had unreported income of \$26,340, according to the details provided in the attached Appendix A, and imposed a penalty of \$1,431.37 in accordance with subsection 163(2) of the Act. In making the reassessment, the Minister relied on the following assumptions of fact:

[TRANSLATION]

- a. The appellant's sole proprietorship of "Serloc Informatique," of which the economic activity was related to the sale, service, and rental of IT products, began in 1996;
- b. On May 27, 2003, the appellant incorporated the company as "Serloc Inc." so as to modify its legal form of organization;
- c. The appellant is the majority shareholder of "Serloc Inc.;"
- d. A tax audit of "Serloc Inc.," of which the appellant was the majority holder during the year in issue, revealed that the appellant's personal expenses were not commensurate with the reported income its source of income, that is, "Serloc Inc.;"
- e. The appellant's cost of living was established primarily through the withdrawals from the couple's bank accounts and the personal expenses paid by the company;
- f. For the period from January 1, 2004, to December 31, 2004, the net worth audit identified the following unreported income amount of \$26 340 (see Appendix);
- g. The details of the unreported income are as follows:

	<u>2004</u>
(i) Taxable benefits received "Serloc Inc."	
(a) personal expenses paid by the corporation Jeep Cherokee (50%)	\$4,909
(b) appropriation of funds	<u>\$21,431</u>
	<u>\$26,340</u>
(ii) During the period in issue, the appellant's wife did not file a return of income for the 2004 taxation year;	

- h. During the period in issue, the Minister determined that the Jeep Cherokee was used for personal purposes 50% of the time and seeing as "Serloc Inc." defrayed all expenses, personal expenses were taxed as taxable benefits for an amount of \$4,909;

- i. The Minister and the appellant agreed in respect of the balance of unreported income, as the company was the appellant's sole source of income, that the amount of \$21,431 would be considered unreported sales for the company and an appropriation of funds for the appellant.

[4] On June 15, 2007, in docket 2009-1372(IT)I, the Minister of National Revenue (the Minister) established a reassessment against the appellant for the 2005 taxation year, according to which he determined, using the net worth method, that the appellant had unreported income of \$13,850, according to the details provided in the attached Appendix A, and imposed a penalty of \$352.90 in accordance with subsection 163(2) of the Act. In making the reassessment, the Minister relied on the following assumptions of fact:

- a. The appellant's sole proprietorship of "Serloc Informatique," of which the economic activity was related to the sale, service, and rental of IT products, began in 1996;
- b. On May 27, 2003, the appellant incorporated the company as "Serloc Inc." so as to modify its legal form of organization;
- c. The appellant is the majority shareholder of "Serloc Inc.;"
- d. A tax audit of "Serloc Inc.," of which the appellant was the majority holder during the year in issue, revealed that the appellant's personal expenses were not commensurate with the reported income its source of income, that is, "Serloc Inc.;"
- e. The appellant's cost of living was established primarily through the withdrawals from the couple's bank accounts and the personal expenses paid by the company;
- f. For the period from January 1, 2005 to December 31, 2005 the net worth audit (see attached pages, the statement of personal expenditures indicates the 2006 taxation year, should read 2005) identified the following unreported income amount of \$13,850 ;
- g. The details of the unreported income are as follows:

	<u>2005</u>
(i) Taxable benefits received "Serloc Inc."	
(a) personal expenses paid by the corporation Jeep Cherokee (50%)	\$4,942
	<u>\$8,908</u>
(b) appropriation of funds	
	<u>\$13,850</u>
(ii) During the period in issue, the appellant's wife filed a return of income for the 2005 taxation year whose salary came "Serloc Inc.;"	

- h. During the period in issue, the Minister determined that the Jeep Cherokee was used for personal purposes 50% of the time and seeing as "Serloc Inc." defrayed all expenses, personal expenses were taxed as taxable benefits for an amount of \$4,942;
- i. The Minister and the appellant agreed in respect of the balance of unreported income, as the company was the appellant's sole source of income, that the amount of \$8,908 would be considered unreported sales for the company and an appropriation of funds for the appellant.

[5] I should immediately note that at the hearing the Minister agreed to reduce the appellant's unreported income for the 2003 taxation year by \$2,000 and to reduce at the same time the amounts subject to the penalty under subsection 163(2) of the Act.

[6] The objections raised by the appellant involve

- i. the Minister imposing a penalty on the additional income for each of the 2003, 2004 and 2005 taxation years;
- ii. the additional income for the taxation years in question, the specific elements of which are:



(a) Gifts in 2003

[7] The appellant submitted that in calculating the net worth differential, the Minister did not take into account the fact that in 2003 his son and daughter gifted to him the amounts of \$1,800 and \$5,232, respectively.

(b) Withdrawals from the appellant's and his wife's bank accounts

[8] The appellant submitted that withdrawals totalling \$8,500 from his wife's bank account at the branch of the Caisse Populaire Desjardins in Sainte-Thérèse de Blainville (the Desjardins bank account) were not used to defray his cost of living. The appellant claimed that the amounts withdrawn were rather deposited into his own bank accounts.

(c) Children's insurance premiums

[9] The appellant submitted that his wife paid for his children's insurance premiums from the Desjardins bank account and that thus those amounts could not be included in his cost of living.

(d) Jeep Cherokee

[10] The appellant submitted that the Jeep Cherokee belonging to Serloc inc. was used by him for personal purposes only 25% of the time during each of the 2003, 2004 and 2005 taxation years.

(e) \$15,000 dividend

[11] The appellant's income tax return for the 2003 taxation year (return completed and filed by the appellant him-self) and the T-5 form that was attached to that return indicate that the appellant received a \$15,000 dividend from Serloc Inc. The Appellant maintains that he did not receive that dividend and is asking the Court to render a decision finding that Serloc Inc. did not report such a dividend in 2003.

Analysis and conclusion

Gifts in 2003

[12] I would like to note that the appellant submitted that the Minister did not take into account the fact that his children had gifted to him amounts totalling \$7,032 in 2003. In that regard, the appellant testified that his son (who was 15 in 2003) and his daughter (who was 16 in 2003) had worked for his company (operated as Serloc Informatique) from 2000 to 2003 and that in 2003 he paid them amounts totalling \$10,464.72 for their services. To support those allegations, the appellant filed in evidence as Exhibit A-1 cheques payable to his two children in April and May 2003 (pièce A-1). The appellant explained that his children had gifted to him amounts totalling \$7,032 in May 2003, out of the amounts (\$10,464 \$) he paid them in April 2003, in order to help him overcome the financial difficulties he experienced in 2003 (notably owing to the reimbursement for the overpayment of employment insurance benefits). He added that his son gave him a cash amount of \$800 on May 1, 2003, and an amount of \$1,000 on May 6, 2003, amounts which he allegedly deposited into a bank account he held at Branch 343 of the Banque Laurentienne (La Laurentienne bank account). In support of that allegation, the appellant filed in evidence a bank statement (Exhibit A-2) which demonstrates that deposits of \$800 and \$1,000 were made to the La Laurentienne bank account on May 1, 2003, and on May 6, 2003, respectively. Finally, he adds that his daughter gifted to him a cheque for \$3,270 and another cheque for \$1,962.36 which he deposited into La Laurentienne bank account on May 14, 2003, and May 22, 2003, respectively. I would like to note here that the bank statement filed in evidence as Exhibit A-2 demonstrates that the deposits of \$3,270 and \$1,962.36 were made to the La Laurentienne bank account on May 14, 2003, and on May 23, 2003, respectively.

[13] In assessing the evidence provided by the appellant, something must be said about the failure to call certain witnesses and provide documentary evidence which could have confirmed what the appellant said. In *Huneault v. The Queen*, 98 DTC 1488, my colleague Judge Lamarre referred to certain statements that were made by Sopinka and Lederman in *The Law of Evidence in Civil Cases* and cited by Judge Sarchuk of this Court in *Enns v. M.N.R.*, No. APP-1992(IT), February 17, 1987, 87 DTC 208, at page 210:

In *The Law of Evidence in Civil Cases*, by Sopinka and Lederman, the authors comment on the effect of failure to call a witness and I quote:

In *Blatch v. Archer*, (1774), 1 Cowp. 63, at p. 65, Lord Mansfield stated:

It is certainly a maxim that all evidence is to be weighed according to the proof which it was in the power of one side to have produced, and in the power of the other to have contradicted.

The application of this maxim has led to a well-recognized rule that the failure of a party or a witness to give evidence, which it was in the power of the party or witness to give and by which the facts might have been elucidated, justifies the court in drawing the inference that the evidence of the party or witness would have been unfavourable to the party to whom the failure was attributed.

In the case of a plaintiff who has the evidentiary burden of establishing an issue, the effect of such an inference may be that the evidence led will be insufficient to discharge the burden. (*Levesque et al. v. Comeau et al.* [1970] S.C.R. 1010, (1971), 16 D.L.R. (3d) 425.).

[14] In the case at bar, the appellant could have called his two children to the stand and provided documentary evidence (such as the cheques issued to him by his daughter in May 2003 or his children's bank statements), but he did not. The inference that I draw from this is that such evidence would have been unfavourable to him. The fact that the appellant only informed the Minister of these gifts a few days prior to the hearing whereas he could have done so at the objection stage and the appellant's allegation that his two children performed services for him in 2001 when they were 12 and 13 only confirmed my doubts as to the truthfulness of the appellant's allegations as regards these gifts. For these reasons, I conclude that the two children did not gift to their father amounts totaling \$7,032 in 2003.

#### Withdrawals from the appellant's and his wife's bank accounts

[15] The appellant essentially submitted that the withdrawals totalling \$8,500 made in 2003 from the Desjardins bank account (in this case \$4,000 on January 1, 2003, and \$4,500 on August 28, 2003) were not used to defray his cost of living. In fact, the appellant claimed that the amount so withdrawn from the Desjardins bank account were rather deposited into the bank accounts he held with the Banque Laurentienne.

[16] More specifically, the appellant testified that on January 1, 2003, his wife issued a \$4,000 cheque to him from the Desjardins bank account which he allegedly deposited into the chequing account he held with the Banque Laurentienne (La Laurentienne chequing account). I would like to note that the appellant filed in

evidence a bank statement (Exhibit A-4) which demonstrates that an amount of \$4,000 was debited to the Desjardins bank account on January 1, 2003. Finally, the appellant explained that it was impossible for him to adduce in evidence the \$4,000 cheque issued to him by his wife and the bank statement demonstrating that he did deposit such an amount in the La Laurentienne chequing account as he had lost his documents and the Banque Laurentienne was not longer able to provide him with them. In that regard, I note that the appellant admitted that he did not take the necessary steps with the bank to obtain those documents.

[17] The appellant also testified that on August 28, 2003, his wife made a cash withdrawal of \$4,500 from the Desjardins bank account, an amount which she allegedly gave him that same day and which he allegedly deposited (as well as \$500) into the La Laurentienne bank account on August 28, 2003. The appellant's evidence to that effect relied on his testimony, on a bank statement (Exhibit A-4) demonstrating that on August 28, 2003, an amount of \$4 502 was debited to the Desjardins bank account and on a bank statement (Exhibit I-4) demonstrating that an amount of \$5,000 and an amount of \$6,000 were debited to the La Laurentienne bank account on August 28, 2003.

[18] In the case at bar, the appellant could have called his wife to the stand (or provided evidence that she was unable to testify) and provided documentary evidence (such as the \$4,000 cheque and the La Laurentienne chequing account bank statement, but he did not. The inference that I draw from this is that such evidence would have been unfavourable to him. For these reasons, I conclude that the appellant did not meet the onus on him to adduce evidence that demonstrated on a balance of probabilities that the Minister was wrong about this point in dispute.

#### Children's insurance premiums

[19] I would like to note that the Appellant submitted that in 2003 his wife took, from the Desjardins bank account, amounts totalling \$2,354 to pay for his children's insurance coverage contracted by the children and that thus the amount of \$2,354 could not be included in his cost of living.

[20] The appellant's evidence to that effect relied on his testimony and on Exhibit A-4 which at best demonstrates that withdrawals identified by the number 2 totalled \$2,354. I reiterate, the appellant could have called to the stand the children in question and his wife and provided documentary evidence (such as the invoices for the insurances contracts and the cheques used to pay those invoices), but he did not. The inference that I draw from this is that such evidence would have been

unfavourable to him. For these reasons, I conclude that the appellant did not meet the onus on him to adduce evidence that demonstrated on a balance of probabilities that such premiums were paid.

[21] In any case, I fail to see how paying those premiums for the appellant's children can change the outcome of the calculation of the net worth differential by the Minister.

### Jeep Cherokee

[22] I would like to note that the appellant submitted that he used the Jeep Cherokee belonging to Serloc Inc. 25% of the time for personal purposes. I would also like to note that the Minister determined that that car was used by the appellant for personal purposes 50% of the time. I also note that the evidence on this subject showed that the Minister and the appellant agreed on that 50% during negotiations at the objection stage.

[23] The appellant's evidence to that effect relies solely on his testimony which I would characterize as vague and imprecise to say the least. Essentially, the appellant explained that he used the Jeep Cherokee 75% of the time to take delivery of the material purchased by Serloc Inc. and that he also use his personal automobile for the same purposes without having claimed reimbursement of expenses incurred to do so from Serloc Inc. I note that the appellant did not deem it necessary to provide details (date, name of supplier and kilometres travelled) about the trips in question. The evidence also revealed that Serloc Inc. and the appellant did not keep any records pertaining to the use of the Jeep Cherokee.

[24] The appellant could not hope to convince me that his allegation in that regard was truthful with such a vague and imprecise testimony, even more since the financial statements of Serloc Inc. (Exhibit A-7) demonstrate that Serloc Inc. had had large transportation expenses.

### \$15,000 dividend

[25] I would like to note that the appellant's income tax return for the 2003 taxation year indicates that the appellant received a \$15,000 dividend. At the objection stage, the appellant submitted that he never received such a dividend from Serloc Inc. in 2003. After verifying the records of Serloc Inc., the Minister accepted the appellant's version of the facts in that regard. To rectify the situation, the Minister therefore

asked the appellant to make the necessary changes in the records of Serloc Inc. in order to create a dividend to be paid. At the same time, the Minister, for the purposes of his calculation of the net worth differential, added to the appellant's assets a claim of \$15,000 (see Appendix A, item "stock" of the financial position for 2003, 2004 and 2005) and made an adjustment of \$3,750 (see Appendix A, item "adjustments to the total income (additions)") to avoid the effect of the dividend gross-up.

[26] The appellant is asking the Court to render a decision finding that the \$15,000 dividend was not reported by Serloc Inc. in 2003. I simply do not see on what basis I could set aside the declaration as to the existence of such a dividend. In fact, the appellant never stated to the Minister that such a dividend was not declared by Serloc Inc. The appellant simply told the Minister that Serloc Inc. did not pay him such a dividend in 2003. The Minister accepted the appellant's version of the facts at the objection stage and made the appropriate changes to his calculation of the net worth differential.

#### Penalty

[27] This brings us to the following question: Did the Minister meet his onus under subsection 163(2) of the Act? Since I am satisfied that the Appellant earned income that he did not report, and that his explanation of the identified discrepancy and of the increase in his assets is not credible, the Minister has met the onus of proof upon him under the terms of those provisions.

[28] For these reasons, the appeal is allowed so as to reduce the appellant's unreported income for the 2003 taxation year by \$2,000 to take into account the Minister's admissions (see paragraph 5) at the beginning of the hearing.

Signed at Ottawa, Canada, this 23rd day of November 2009.

"Paul Bédard"

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Bédard J.

Translation certified true  
on this 29th day of December 2009.  
Daniela Possamai, Translator

## APPENDIX A

Taxpayer/Registrant: PAUL AUBIN  
 Auditor: Bony Janvier  
 Audit  
 Period: 2003-01-01  
 to 2005-12-31

Prepared: 14-Oct-09

### Statement of Financial Position – Assets

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>F/T</u>
<b>ASSETS</b>						
<b><u>Business assets</u></b>						
<b><u>Short-term assets</u></b>						
Cash in hand						
Bank account		15,773.29				297-167
Bank account						
Stock			15,000.00	15,000.00	15,000.00	
Other assets		13,087.00				2500-4
<b><u>Long-term assets</u></b>						
Other assets						
(UCC) [illegible]						
Goodwill						
CEC						
Other						
<b>Total business assets</b>		28,860.29	15,000.00	15,000.00	15,000.00	
<b><u>Personal assets</u></b>						
<b><u>Short-term assets</u></b>						
Cash in hand		500.00	1,241.00	622.00	1,363.57	1100, 1100-12, 1100-24 and 1100-36
Bank account (Scotia)			501.41	263.06	134.01	292-92, 292-101, 292-117
Bank account (Laurentienne)			135.06	1,574.26	79.91	292-76, 292-78, 1100-23 and 292-90
Bank account (Nationale)		57.53	30.73	19.00	1,923.04	292-9, 292-4, 292-5
Sainte-Thérèse de Blainville bank account		7,392.86	2,212.99	5,502.81	9,285.10	292-162, 292-163, 292-164, 292-166
<b><u>Long-term assets</u></b>						
Investments (Serloc Inc.)		22,558.00	32,558.03	24,863.00	25,013.00	2500-4 and 2501-3
Stéphanie's loan		4,200.00	23,945.00	19,145.00	15,145.00	1100, 1100-11, 1100-24 and 1100-36
Automobile (2005 Pontiac)		4,500.00				o.k.
Automobile #2 (Chevrolet Colorado)				37,654.68	37,654.68	2502 to 2502-2
Jean François' loan				45,540.06	71,340.29	1100-24 and 1100-36
Residence 1		106,000.00				2503-1 and 2503-2
Residence 2			150,000.00	150,000.00	150,000.00	2503-1 and 2503-5
Other personal assets			5,144.09	5,144.09	5,144.09	2504 and 2504-1
<b>Total personal assets</b>		145,208.59	205,768.28	290,327.96	313,236.61	
<b>TOTAL ASSETS</b>		174,068.88	220,768.28	305,327.96	328,236.61	

Taxpayer/Registrant: PAUL AUBIN  
 Auditor: Bony Janvier  
 Audit  
 Period: 2003-01-01  
 to 2005-12-31

Prepared: 14-Oct-09

**Statement of Financial Position – Liabilities**

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2 004</u>	<u>2005</u>	<u>F/T</u>
<b>LIABILITIES</b>						
<b><u>Business liabilities</u></b>						
<b>Short-term liabilities</b>						
Bank overdraft						
Accounts to be paid to supplier						
Sales tax due						
Amounts to be paid (J- François and Stéphanie)		10,464.72				3100 to 3100-3
<b>Long-term liabilities</b>						
Loan						
Mortgage						
Other long-term liabilities						
<i>Total business liabilities</i>		10,464.72				
<b><u>Personal liabilities</u></b>						
<b>Short-term liabilities</b>						
Line of Credit (Banque Laurentienne)	60,282.39	(10.53)	57,134.53	71,228.98		292-43, 292-54, 292-63 and 292-75
Line of credit (Bque Nle)	(209.46)	(27.06)	2.50	7,754.68		292-6, 292-18, 292-30 and 292-42
Line of credit (Scotia Bank)		63,398.32	55,321.40	72,248.04		292-136, 292-148, and 292-163
Line of credit (MBNA)	0.41	2,507.12				3102 and 3102-10
<b>Long-term liabilities</b>						
Mortgage on the residence						
Chevrolet Colorado			32,810.96	25,780.04		3101 to 3101-3
Home Dépôt line of credit						
Other (Brault & Martineau-credit)		4,715.42	3,000.74	1,428.95		2504 and 2504-1
<i>Total personal liabilities</i>	60,073.34	70,583.27	148,270.13	178,440.69		
<b>TOTAL LIABILITIES</b>	70,538.06	70,583.27	148,270.13	178,440.69		
Net worth (assets less liabilities)	103,530.82	150,185.01	157,057.83	149,795.92		
Net worth previous year	n/a	N/A	103,530.82	150,185.01	157,057.83	
Increase (Decrease) in net worth	n/a	N/A	46,654.89	6,872.82	(7,261.91)	



Taxpayer/Registrant: PAUL AUBIN  
 Auditor: Bony Janvier  
 Audit  
 Period: 2003-01-01  
 to 2005-12-31

Prepared: 14-Oct-09

**Calculation of net worth differential based on total income  
 (for tax purposes)**

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>F/T</u>
Increase (Decrease) in net worth (in accordance with Appendix 2)	46,654.39	6,872.82	7,261.91		
<b><u>Adjustments to total income</u></b>					
<i>Additions</i>					
Personal expenses (in accordance with Appendix 4)	59,706.15	39,275.36	40,082.04	8803 and 292-135	
Source deductions - taxpayer/registrant					
Source deductions - spouse					
Tax payment- taxpayer/registrant					
Tax payment - spouse					
QPP paid on employment income - spouse					
EI paid on employment income - spouse					
Tax deductions on cashed RRSP - spouse					
Amount paid to children (previous benefit)					
Overpayment reimbursement previous year	19,347.67				
Non-deductible portion of capital loss					
Income based on calendar year - taxpayer/registrant					
Income based on calendar year - spouse					
Reserve previous year re: year-end changes					
Additional ITC by the auditor					
Gross-up (\$15,000 dividend)	3,750.00				
<b>Total additions</b>	<b>82,803.82</b>	<b>39,275.36</b>	<b>40,082.04</b>		
<i>Deductions</i>					
Non-taxable gains on the sale of personal property					
Additional GST/HST due based on reasonableness test					
Additional GST/HST due based on ITC adjustments					
Tax reimbursement - taxpayer/registrant			75.98	429.93	
Revenu Québec reimbursement	932.07				
GST credit	214.50		332.00	451.00	
Canada Child Tax Benefit					
Insurance products (non-taxable)					
[illegible]					
[illegible] (pension)	15,600.00	7,800.00	450.00		
Lottery winnings (wife's bank statement)	4,275.00	2,600.00	3,978.75		
Non-taxable gains on the sale of the principal residence	54,000.00				
Reserve re: year-end changes					
Revenue based on fiscal year - taxpayer/registrant					
Revenue based on fiscal year - spouse					
Other (sale of equipment)	5,115.00				
<b>Total deductions</b>	<b>80,136.57</b>	<b>10,807.98</b>	<b>5,309.68</b>		
<b>Net adjustments (Additions less Deductions)</b>	<b>2,667.25</b>	<b>28,467.38</b>	<b>34,772.36</b>		
<b>Total income based on net worth adjusted</b>	<b>49,321.44</b>	<b>35,340.20</b>	<b>27,510.45</b>		
<b>Less: Total income declared (line 150)</b>					
<i>Taxpayer/Registrant</i>	18,915.00	9,000.00	7,660.00		
<i>Spouse</i>			6,000.00		
<b>Total income differential based on net worth method</b>					

Taxpayer/Registrant: PAUL AUBIN  
 Auditor: Bony Janvier  
 Audit  
 Period: 2003-01-01  
 to 2005-12-31

Prepared: 14-Oct-09

**Summary of personal expenses**

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>F/T</u>
(1) Food		9,100.00	7,020.00	15,200.00	
(2) Lodging					
(3) Lodging expenses					
(4) Clothing					
(5) Transportation					
(6) Health care					
(7) Personal care					
(8) Entertainment					
(9) Newspapers, magazines, books					
(10) Education					
(11) Tobacco and alcohol					
(12) Life insurance					
(13) Gifts and contributions					
(14) Varia					
(15) Personal taxes					
(16) Other	50,606.15	32,255.36	34,882.04		
	59,706.15	39,275.36	40,082.04		

CITATION: 2009 TCC 600

COURT FILE NOS.: 2009-1371(IT)I, 2009-1372(IT)I,  
2009-1373(IT)I

STYLE OF CAUSE: PAUL AUBIN and HER MAJESTY THE  
QUEEN

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: October 20, 2009

REASONS FOR JUDGMENT BY: The Honourable Justice Paul Bédard

DATE OF JUDGMENT: November 23, 2009

APPEARANCES:

    Counsel for the appellant: Daniel Gilbert

    Counsel for the respondent: Simon Olivier de Launière

COUNSEL OF RECORD:

    For the appellant:

        Name: Daniel Gilbert

        Firm: Bissonnette & Fortin S.E.N.C.R.L.  
            Saint-Jérôme, Quebec

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