Docket: 2008-4167(IT)G

BETWEEN:

JOSEPH CARLO ST-PHILIPPE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on March 30, 2011, at Montréal, Quebec

Before: The Honourable Justice Robert J. Hogan

Appearances:

For the appellant:	The appellant himself
Counsel for the respondent:	Antonia Paraherakis

JUDGMENT

The appeal from the reassessments made under the *Income Tax Act* for the 2002 and 2003 taxation years is allowed, and the matter is referred back to the Minister of National Revenue for reconsideration and reassessment in accordance with the attached Reasons for Judgment.

The appeal for the 2004 taxation year is dismissed.

There shall be no award concerning costs or disbursements.

Signed at Ottawa, Canada, this 3rd day of June 2011.

"Robert J. Hogan"

Hogan J.

Translation certified true
on this 30th day September 2011

François Brunet, Reviser

Citation: 2011 TCC 284
Date: 20110603
Docket: 2008-4167(IT)G

BETWEEN:

JOSEPH CARLO ST-PHILIPPE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR JUDGMENT

Hogan, J.

INTRODUCTION

[1] This appeal concerns the 2002, 2003 and 2004 taxation years. The Minister of National Revenue (the Minister) issued notices of reassessment against Joseph Carlo St-Philippe (the appellant) based on the projection method, an alternative assessment method.

[2] Upon filing his income tax return for each of the taxation years in question, the appellant reported net business income amounts of $9,393, $7,556 and $8,210, respectively. The Minister made the following changes in relation to the years in question:

(a) the net business income amounts were revised to $91,862, $81,938 and $35,981, respectively; and
(b) penalties for gross negligence, in the amounts of $7,365, $6,292 and $1,718, respectively, were assessed.

[3] The issues are as follows:

(a) Did the appellant receive the unreported income referred to above?
(b) Has the Minister shown that the conditions for assessing a penalty for gross negligence have been met?
(c) Has the Minister met his burden of proving the facts necessary to reassess the appellant after the normal reassessment period for the 2002 taxation year?

FACTS

[4] The appellant is a taxi driver. He holds a T11 licence, which allows him to operate his business and, therefore, work in the following municipalities: Côte Saint-Luc, Hampstead, LaSalle, Montréal, Montréal-Ouest, Mont-Royal, Outremont, Saint-Laurent, Saint-Pierre, Verdun and Westmount.

[5] In making and confirming the notices of assessment dated May 28, 2007, the Minister relied on the following assumptions of fact:

[TRANSLATION]

(a) The appellant has been working in the taxi business since 1977.

(b) During the periods in issue, the appellant was a self-employed taxi driver.

(c) During the periods in issue, the appellant operated just one taxi, which he did not sublease to anyone.

(d) In 1983, the appellant purchased a taxi licence, valued at $15,500, from an individual.

(e) The appellant's taxi licence is a class T11 Montréal licence, which entitles him to work in the following municipalities: Côte Saint-Luc, Hampstead, LaSalle, Montréal, Montréal-Ouest, Mont-Royal, Outremont, Saint-Laurent, Saint-Pierre, Verdun and Westmount.

(f) The appellant works as an independent taxi driver, and uses the stands that the MUC makes available to taxis.

(g) During the periods in issue, the appellant had no agreement with an airport, and no agreement to provide specialized transit.

(h) According to the statistical data from the Bureau du taxi de Montréal and the Commission des transports du Québec, the gross business income generated from the use of a taxi licence amounts to $64,385 per year.

(i) The appellant reported gross business income of approximately $15,000 per year.

(j) In the course of the respondent's audit, the only documents that the respondent's representatives were able to consult were some bank statements and mechanical reports.

(k) The appellant claims that he paid expenses in cash, directly from taxi revenues, which were not deposited.

(l) During the periods in issue, the appellant used his vehicle exclusively (100%) for taxi income. He had other vehicles for his personal use.

(m) The appellant provided no information about the distance he drove annually.

(n) The appellant's tax returns make no mention of distances driven for business or personal purposes.

(o) The respondent's auditor obtained the appellant's mechanical inspection reports for the years 2002 to 2004 from the Société de l'assurance automobile du Québec (SAAQ).

(p) Given the lack of documents, the auditor proceeded to reconstruct the appellant's income using a projection method that relied, among other things, on SAAQ and Commission des transports du Québec data, as shown in Annex A hereto.

(q) On September 21, 2006, the respondent's auditor met with the appellant to explain the draft assessment to him.

(r) During that meeting, the projection method used by the respondent was explained to the appellant. It was also explained to him that the deadline for submitting his representations was October 23, 2006.

(s) On October 23, 2006, the auditor attempted to contact the appellant on his cell phone in order to get his position on the draft assessment, but she was unsuccessful because the number had been assigned to another person.

(t) Thereafter, a letter was mailed to the appellant, telling him that he was being given one last period of 10 days, but the respondent's representative received no news from the appellant.

(u) The confirmed notices of reassessment dated May 28, 2007, made the following changes:

	2002**	**2003**	**2004**
Reported gross business			

income	$9,393	$7,556	$8,210
Unreported business income	$82,469	$74,382	$27,771
Revised net business income	$91,862	$81,938	$35,981
Amounts subject to penalty** 163(2) ITA:	**$82,469**	$**74,382**	$**27,771**

** The 2002 year became statute-barred on August 8, 2006.

[6] The appellant's income tax file was selected for an audit as part of a taxi industry audit program undertaken by the Canada Revenue Agency (CRA).

[7] The evidence reveals that the appellant did not keep adequate books and records for his business. The appellant claims that the gross and net incomes that he reported for each year in question are accurate because the figures are from sheets on which he recorded his business revenues at the end of each day. However, the appellant acknowledges that his notes make no reference to the number of trips made with or without passengers, or to the kilometres driven, or to the income earned per trip. Furthermore, the appellant claims that the work sheets on which the information was recorded were destroyed during a fire in the apartment in which he was living.

[8] Due to the absence of adequate accounting records, Diane Châteauvert, the CRA auditor responsible for reviewing the appellant's file, proceeded to do a net worth assessment. The draft statement of net worth, adduced as Exhibit I-18, shows that the net income reported by the appellant was not sufficient to cover his personal expenses.

[9] Ms. Châteauvert used the projection method to determine whether the appellant had earned income that he did not report. For the 2002, 2003 and 2004 taxation years, the Minister determined that the appellant drove a total of 112,327 km, 104,329 km and 50,574 km, respectively, on the basis of the taxi maintenance records obtained from the Société de l'assurance automobile du Québec (SAAQ). The Minister also took the following numbers into consideration in determining the unreported income from the appellant's business:

Joseph Carlo St-Philippe		**AUDIT**		
	Projection Method	**2002**	**2003**	**2004**
Total km driven	Based on mechanical inspection reports	112,327	104,329	50,574

% business use	Based on information obtained	100%	100%	100%
TOTAL Kilometres on Business		**112,327**	**104,329**	**50,574**
% of km driven without customers	50% of km on business	50%	50%	50%
Kilometres on Business WITHOUT A CUSTOMER		**56,164**	**52,165**	**25,287**
Rate charged per km	2002 and 2003 = $1.20 2004 and 2005 = $1.30	$1.20	$1.20	$1.30
Number of trips	Average km per trip	5	5	5
Rate charged per trip	2002 and 2003 = $2.50 2004 and 2005 = $2.75	$2.50	$2.50	$2.75
Tip percentage	5% – 15%	10%	10%	10%

Income earned for kilometres driven with customers	$67,396.00	$62,597.40	$32,873.10
Income earned on a per-trip basis	$28,081.75	$26,082.25	$13,907.85
Tips	$9,457.80	$8,867.97	$4,678.10
Gross income determined using projection method	$105,025.75	$97,957.82	$51,459.05

Minus:

Additional gas expenses	$0.00	$0.00	$0.00
Other additional expenses	$0.00		
Reported gross income	$22,556.40	$23,166.04	$23,687.75
Discrepancy	**$82,469.35**	**$74,381.58**	**$27,771.30**

Martin Nadeau
Appeals Division
Laval TSO

[10] The appellant claims that the distances calculated by Ms. Châteauvert for the 2002 and 2003 taxation years are inaccurate because they are from readings of two different odometers. The appellant used an old 1983 Mercedes during the years in question. He had to replace the odometer on that car twice and, on both occasions, he installed a used odometer. According to the appellant, the SAAQ took readings from the replacement odometers, which resulted in false readings of the distances the appellant had driven. The distance displayed on the replacement odometers was higher than the distance on the odometers they replaced. The taxpayer claims that he cannot possibly have driven 50,000 km each year, and that the distance of 50,574 km for 2004 actually corresponds to the distances driven in 2003 and 2004 combined.

[11] Ms. Châteauvert admitted that the kilometres calculated for 2002 and 2003 seem very high, and she tried to determine again the distance driven by the Appellant on the basis of his annual gasoline consumption, which resulted in a much lower figure than the one used for the purposes of the projection method. The respondent tried to settle the matter on this new basis, but the taxpayer refused.

[12] I note that there are errors in the distance calculations based on consumption, and that the respondent has consented to a settlement of this file based on the assumption that the taxpayer drove 50,574 kilometres in the course of each of the years in question. Counsel for the respondent provided new calculations based on this assumption for 2002 and 2003. Using these calculations, the appellant's unreported net income would be $24,730.29 for the 2002 taxation year and $24,120.65 for the 2003 taxation year.

ANALYSIS

[13] It is a settled principle of Canadian tax law that the Minister may make arbitrary assessments using any appropriate method having regard to the specific circumstances.[1] Did the appellant earn unreported income?

[14] The numbers used by the Minister in this case derive from the application of taxi industry regulations and from statistics established by the Commission des transports du Québec in a public inquiry held to set the rates applicable to Montreal Island and other parts of Quebec. The statistics in question were accepted by the various associations that represented Montreal Island taxi drivers in the public debates. The appellant does not accept the Minister's calculations, but has not proposed any alternative method for consideration, and is unable to specify the

[1] *Hsu v. Canada*, 2001 FCA 240, at paragraph 22; *Richard v. Canada*, [1997] T.C.J. No. 643 (QL), at paragraphs 13 and 15.

number of fares that he earned each day on business, and the income derived from those fares. The corrections to be made to the calculations based on the reduced distances driven in 2002 and 2003 are set out in Schedule I to these reasons.

Assessment and reassessment (limitation period)

[15] The term "normal reassessment period" is defined as follows in subsection 152(3.1) of the *Income Tax Act* (ITA):

> **152(3.1) Definition of "normal reassessment period"** — For the purposes of subsections (4), (4.01), (4.2), (4.3), (5) and (9), 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 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.

[16] Subparagraph 152(4)(*a*)(i) of the ITA pertains to the limitation period for making assessments or reassessments:

> **152(4) Assessment and reassessment** — The Minister may at any time make an assessment, reassessment or additional assessment of tax for a taxation year, interest or penalties, if any, payable under this Part by a taxpayer or notify in writing any person by whom a return of income for a taxation year has been filed that no tax is payable for the year, except that an assessment, reassessment or additional assessment may be made after the taxpayer's normal reassessment period in respect of the year only if
>
> (*a*) the taxpayer or the person filing the return
>
> (i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act,
>
> …
>
> [Emphasis added.]

[17] Justice Bowman, as he then was, stated in *Biros v. The Queen* that "[t]he Minister has the onus of establishing misrepresentation in order to open up the statute-barred year."[2]

[18] Justice Bowie noted as follows in *College Park Motors Ltd. v. The Queen*[3]:

> 20 … subparagraph 152(4)(*a*)(i) is not penal but remedial. It balances the need for taxpayers to have some finality in respect of their taxes for the year with the requirement of a self-reporting system that the taxing authority not be foreclosed from reassessing in those instances where a taxpayer's conduct, whether through lack of care or attention at one end of the scale, or willful fraud at the other end, has resulted in an assessment more favourable to the taxpayer than it should have been. This, quite rightly, is not a penalty case. ...

[19] Justice Bowie also stated that subparagraph 152(4)(*a*)(i) "…is not at all concerned with establishing culpability on the part of the taxpayer. Other provisions of the *Act* are in place to do that. …"[4]

[20] Justice Tardif reviewed the case law regarding the meaning of "neglect" and "misrepresentation" in subparagraph 152(4)(*a*)(i) in *Savard v. The Queen.*[5] He quoted, with approval, the following remarks of Judge Cardin of the Tax Review Board in *J.J. Froese v. M.N.R.*[6]:

> … I do not believe that in this context any inference other than their generally accepted meaning can or should be given to the words "neglect" or "carelessness" which is the contrary of the reasonable care that is ordinarily, usually, or normally given by a wise and prudent person in any given circumstances.

[21] Justice Strayer of the Federal Court stated the following in *Venne v. Canada*[7] with respect to the Minister's burden:

> … [I]t is sufficient for the Minister, in order to invoke the power under subparagraph 152(4)(*a*)(i) of the Act to show that, with respect to any one or more aspects of his income tax return for a given year, a taxpayer has been negligent. Such negligence is established if it is shown that the taxpayer has not exercised reasonable care. This is surely what the words "misrepresentation that is attributable to neglect" must mean, particularly when combined with other grounds such as "carelessness" or "willful default" which refer to a higher degree of negligence or to intentional misconduct. …

---

[2] 2007 TCC 248, at paragraph 24.
[3] 2009 TCC 409.
[4] *Ibid.*, at paragraph 13.
[5] 2008 TCC 62.
[6] *Ibid.*, at paragraph 52, citing *Froese*, [1981] C.T.C. 2282, at page 2288.
[7] [1984] F.C.J. No. 314 (QL); see also *Savard*, at paragraph 53.

[22] Justice Strayer concluded that the taxpayer had not demonstrated reasonable care in preparing and producing his income tax returns, and noted that "[t]his conclusion is based partly on the magnitude of the unreported income."[8]

[23] The Federal Court of Appeal (FCA), *per* Justice Pelletier, recognized in *Lacroix v. Canada*[9] that in the majority of cases, the Minister would have difficulty showing direct evidence of the taxpayer's state of mind at the time the income tax return was filed:

> 32 …Insofar as the Tax Court of Canada is satisfied that the taxpayer earned unreported income and did not provide a credible explanation for the discrepancy between his or her reported income and his or her net worth, the Minister has discharged the burden of proof on him within the meaning of subparagraph 152(4)(*a*)(i) and subsection 162(3) [*sic*].

[24] The remarks of Justice Létourneau of the FCA in *Molenaar v. Canada*[10] are to the same effect as the remarks of Justice Pelletier in *Lacroix*:

> 4 Once the Ministère establishes on the basis of reliable information that there is a discrepancy, and a substantial one in the case at bar, between a taxpayer's assets and his expenses, and that discrepancy continues to be unexplained and inexplicable, the Ministère has discharged its burden of proof. …

Penalties

[25] Subsection 163(2) of the ITA imposes a penalty on a taxpayer who, knowingly, or under circumstances amounting to gross negligence, makes a false statement or omission in an income tax return:

> **163(2) False statements or omissions** — Every person who, knowingly, or under circumstances amounting to gross negligence, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a return, form, certificate, statement or answer (in this section referred to as a "return") filed or made in respect of a taxation year for the purposes of this Act, is liable to a penalty of the greater of $100 and 50% of the total of.…

[26] Subsection 163(3) of the ITA puts the burden on the Minister to prove that the circumstances justifying a penalty pursuant to subsection 163(2) are present:

---

[8] *Ibid.*
[9] 2008 FCA 241.
[10] 2004 FCA 349.

> **163(3) Burden of proof in respect of penalties** — Where, in an appeal under this Act, a penalty assessed by the Minister under this section or section 163.2 is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Minister.

[27] According to subsection 163(2) and the case law, the burden is on the Minister to establish the facts justifying the assessment of a penalty under subsection 163(2).[11] In *Corriveau v. Canada*,[12] Judge Archambault described the Minister's burden as follows:

> 26 … [H]e must prove: (1) that the taxpayer made a false statement or omission in a return, and (2) that the false statement or omission was made knowingly or under circumstances amounting to gross negligence.

[28] In *Venne*, Justice Strayer stated the following with respect to subsection 163(2):

> … One must keep in mind, as Cattanach, J. said in the *Udell* case *supra* that this is a penal provision and it must be construed strictly. The subsection obviously does not seek to impose absolute liability but instead only authorizes penalties where there is a high degree of blameworthiness involving knowing or reckless misconduct….[13]

[29] In *Morin v. M.N.R.*,[14] Chief Judge Couture stated the following:

> To escape the penalties provided in subsection 163(2) of the Act, it is necessary, in my opinion, that the taxpayer's attitude and general behaviour be such that no doubt can seriously be entertained as to his good faith and credibility throughout the entire period covered by the assessment. …

[30] In *Venne*, the FCA stated the following:

> …"Gross negligence" must be taken to involve greater neglect than simply a failure to use reasonable care. It must involve a high degree of negligence tantamount to intentional acting, an indifference as to whether the law is complied with or not….[15]

[31] In *Farm Business Consultants Inc. v. Canada*,[16] Judge Bowman stated the following:

---

[11] *Lacroix*, at paragraph 26; *Venne*, at paragraph 35.
[12] [1998] T.C.J. No. 1122 (QL).
[13] Note 7.
[14] [1988] T.C.J. No. 108 (QL).
[15] Note 7.
[16] [1994] T.C.J. No. 760 (QL), aff'd [1996] F.C.J. No. 82 (QL).

> 22 … If, however, it is misrepresentation attributable to "wilful default" it is much more difficult to conclude that it is not equally a "false statement" which the appellant made "knowingly" within the meaning of subsection 163(2). …

The judge also said that the terms "neglect" and "carelessness" in subparagraph 152(4)(*a*)(i) are included in the term "gross negligence" in subsection 163(2), and that the term "wilful default" in subparagraph 152(4)(*a*)(i) is implicitly included in the term "knowingly" in subsection 163(2):

> 23 …"Neglect, carelessness, wilful default or ... fraud" (*négligence, inattention, omission volontaire ou ... fraude*) cover a wide range of non-feasance or misfeasance, innocent or intentional, to which a misrepresentation in a return may be attributable. There is no hiatus between the words in this series, which starts with ordinary neglect and proceeds by gradual degrees to fraud which would justify a penalty under subsection 163(2). The type of carelessness or neglect encompassed by subparagraph 152(4)(a)(i) may include, but is not as extensive as, that contemplated in the words "gross negligence" in subsection 163(2) ("*faute lourde*") which implies conduct characterized by so high a degree of negligence that it borders on recklessness. It would be difficult to conclude that the state of mind required for "wilful default" ("*omission volontaire*") is not the same as that implicit in the word "knowingly" ("*sciemment*").

[32] In *Lacroix*,[17] the FCA concluded that the taxpayer had committed gross negligence. According to the Court, the taxpayer had not provided a credible explanation for the misrepresentation of facts in his income tax return:

> 29 … In the case at bar, the Minister found undeclared income and asked the taxpayer to justify it. The taxpayer provided an explanation that neither the Minister nor the Tax Court of Canada found to be credible. Accordingly, there is no viable and reasonable hypothesis that could lead the decision-maker to give the taxpayer the benefit of the doubt. The only hypothesis offered was deemed not to be credible.
>
> 30 The facts in evidence in this case are such that the taxpayer's tax return made a misrepresentation of facts, and the only explanation offered by the taxpayer was found not to be credible. Clearly, there must be some other explanation for this income. It must therefore be concluded that the taxpayer had an unreported source of income, was aware of this source and refused to disclose it, since the explanations he gave were found not to be credible. In my view, given such circumstances, one must come to the inevitable conclusion that the false tax return was filed knowingly, or under circumstances amounting to gross negligence. This justifies not only a penalty, but also a reassessment beyond the statutory period.

[33] The above remarks by the FCA in *Lacroix* sum up the conclusion that must be reached in this case. The Minister has met his burden of proof. The Minister showed

---

[17] Note 9.

the discrepancies between the gross business income reported by the appellant and the net business income determined using the alternative assessment method. Although the appellant does not accept the Minister's calculations, he offers no other reliable calculation method. Indeed, the appellant did not keep adequate books and records, and is therefore unable to specify the number of paid trips that he drove for his business, or the income that he earned therefrom.

[34] The draft statement of net worth prepared by the auditor shows that the income reported by the appellant would not enable him to support himself financially. The appellant has offered no credible explanation for the discrepancy between the meagre net income that he reported and the cost of living.

CONCLUSION

[35] For all these reasons, the taxpayer's appeal is allowed for the 2002 and 2003 taxation years. The reassessments are referred back to the Minister in order for the net unreported income for the 2002 and 2003 taxation years to be calculated in accordance with Schedule I to this judgment. The penalties will be reduced in accordance with these calculations.

[36] The appeal for the 2004 taxation year is dismissed. There will be no award concerning costs or disbursements.

Signed at Ottawa, Canada, this 3rd day of June 2011.

"Robert J. Hogan"

Hogan J.

Translation certified true
on this 30th day September 2011

François Brunet, Reviser

ANNEX I
JOSEPH CARLO ST-PHILIPPE
2002 TAXATION YEAR

Reported gross taxi income (including taxes)			$22,556.40
A. Income earned per kilometre driven with customers			
Total kilometres driven in year	50,574		
% business use	x 100%		
Total kilometres driven on business	50,574		
Minus			
Kilometres driven without a customer (50%)	25,287		
Kilometres driven by a lessee (if applicable)	0		
Total kilometres driven on business	25,287		
Rate charged per kilometre driven with customers	x $ 1.20		
Total income determined per kilometre driven with customers		$30,344.40	
B. Trip-based income			
Number of trips (5 km /customer)	5,057.40		
Rate charged per trip	x $2.50		
Total trip-based income		$12,643.50	
C. Tips			
Total taxi income (A+B)	$42,987.90		
Tip percentage	x 10%		
Total income from tips		$4,298.79	
D. Leasing income from taxi business			
Leasing income		—	
Gross taxi income determined by CRA using projection method (A+B+C+D)			$47,286.69
Difference			$24,730.29

Please note that the total distance of 50,574 km includes 9,040 km in personal trips back and forth between the appellant's residence and his place of work. (Reference: Reply to the Notice of Appeal, page 15)

ANNEX I
JOSEPH CARLO ST-PHILIPPE
2003 TAXATION YEAR

Reported gross taxi income (including taxes)			$23,166.04
A. Income earned per kilometre driven with customers			
Total kilometres driven in year	50,574		
% business use	x 100%		
Total kilometres driven on business	50,574		
Minus			
Kilometres driven without a customer (50%)	25,287		
Kilometres driven by a lessee (if applicable)	0		
Total kilometres driven on business	25,287		
Rate charged per kilometre driven with customers	x $1.20		
Total income determined per kilometre driven with customers		$30,344.40	
B. Trip-based income			
Number of trips (5 km /customer)	5,057.40		
Rate charged per trip	x $2.50		
Total trip-based income		$12,643.50	
C. Tips			
Total taxi income (A+B)	$42,987.90		
Tip percentage	x 10%		
Total income from tips		$4,298.79	
D. Leasing income from taxi business			
Leasing income		—	
Gross taxi income determined by CRA using projection method (A+B+C+D)			$47,286.69
Difference			$24,120.65

Please note that the total distance of 50,574 km includes 9,040 km in personal trips back and forth between the appellant's residence and his place of work. (Reference: Reply to the Notice of Appeal, page 15)

ANNEX I
JOSEPH CARLO ST-PHILIPPE
2004 TAXATION YEAR

Reported gross taxi income (including taxes)			$23,687.75
A. Income earned per kilometre driven with customers			
Total kilometres driven in year	50,574		
% business use	x 100%		
Total kilometres driven on business	50,574		
Minus			
Kilometres driven without a customer (50%)	25,287		
Kilometres driven by a lessee (if applicable)	0		
Total kilometres driven on business	25,287		
Rate charged per kilometre driven with customers	x $1.30		
Total income determined per kilometre driven with customers		$32,873.10	
B. Trip-based income			
Number of trips (5 km /customer)	$5,057.40		
Rate charged per customer	x $2.75		
Total trip-based income		$13,907.85	
C. Tips			
Total taxi income (A+B)	$46,780.95		
Tip percentage	x 10%		
Total income from tips		$4,678.10	
D. Leasing income from taxi business			
Leasing income		—	
Gross taxi income determined by CRA using projection method (A+B+C+D)			$51,459.05
Difference			$27,771.30

Please note that the total distance of 50,574 km includes 9,040 km in personal trips back and forth between the appellant's residence and his place of work. (Reference: Reply to the Notice of Appeal, page 15)

CITATION:	2011 TCC 284
COURT FILE NO.:	2008-4167(IT)G
STYLE OF CAUSE:	JOSEPH CARLO ST-PHILIPPE v. HER MAJESTY THE QUEEN
PLACE OF HEARING:	Montréal, Quebec
DATE OF HEARING:	March 30, 2011
REASONS FOR JUDGMENT BY:	The Honourable Justice Robert J. Hogan
DATE OF JUDGMENT:	June 3, 2011

APPEARANCES:

For the appellant:	The appellant himself
Counsel for the respondent:	Antonia Paraherakis

COUNSEL OF RECORD:

For the appellant:	
Name:	
Firm:	
For the respondent:	Myles J. Kirvan Deputy Attorney General of Canada Ottawa, Canada