

Docket: 2011-1030(IT)APP

BETWEEN:

JANETT JOHNSON,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Application heard on July 7, 2011, at Toronto, Ontario

Before: The Honourable Justice Wyman W. Webb

Appearances:

Agent for the Applicant:

Courney Johnson

Counsel for the Respondent:

Alisa Apostle

Jose Rodrigues

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ORDER

The application by the Applicant for an extension of the time within which a notice of objection in relation to the reassessment made under the *Income Tax Act* for the Applicant's 2007 taxation year may be served is dismissed, without costs.

Signed at Vancouver, British Columbia, this 25<sup>th</sup> day of August, 2011.

“Wyman W. Webb”

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Webb, J.

Citation: 2011TCC401  
Date: 20110825  
Docket: 2011-1030(IT)I

BETWEEN:

JANETT JOHNSON,

Applicant,

and

HER MAJESTY THE QUEEN,

Respondent.

**REASONS FOR ORDER**

Webb, J.

[1] The Applicant was reassessed on July 23, 2009 to deny amounts claimed as charitable donations in 2006 and 2007. The amounts claimed were based on the following receipts issued in 2006:

<b>Organization</b>	<b>Amount</b>
International Charity Association Network	\$6,036.13
The Millennium Charitable Foundation	\$1,000.00
Total:	\$7,036.13

[2] The Applicant claimed approximately 54% of this amount in her tax return for 2006 and the balance in her tax return for 2007. The amounts claimed for 2006 and 2007 were denied.

[3] The Applicant filed a Notice of Objection on August 20, 2009. The taxation year was identified as 2006. The Notice of Objection also identified the following:

Gift-in-kind Donation Amount: \$6,036.00

Cash Donation Amount: \$1,000.00

[4] The Minister notified the Applicant by letter dated January 22, 2010 that the Notice of Objection that the Applicant had served was only for the 2006 taxation year and since the 2007 taxation year had also been reassessed, that a separate Notice of Objection would be required in relation to the reassessment for 2007.

[5] On February 15, 2011 (which is more than one year after the date of the letter from the Minister referred to above) the Applicant filed with the Minister an application for an extension of time to serve a Notice of Objection in relation to the reassessment of her tax liability for 2007. This application was not granted because it was not made within one year from the expiration of the time period within which a Notice of Objection to the reassessment issued on July 23, 2009 could have been served. The Applicant then applied to this Court to have the application granted.

[6] Section 166.2 of the *Income Tax Act* (the “*Act*”) provides in part as follows:

166.2 (1) A taxpayer who has made an application under subsection 166.1[(1)] may apply to the Tax Court of Canada to have the application granted after either

(a) the Minister has refused the application, or

(b) 90 days have elapsed after service of the application under subsection 166.1(1) and the Minister has not notified the taxpayer of the Minister's decision,

but no application under this section may be made after the expiration of 90 days after the day on which notification of the decision was mailed to the taxpayer.

...

(5) No application shall be granted under this section unless

(a) the application was made under subsection 166.1(1) within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be; and ...

[7] The application under subsection 166.1(1) of the *Act* (which is referred to in paragraph 166.2(5)(a) above) is the application to the Minister to extend the time to serve a notice of objection. The time within which a notice of objection may be served (without an extension of time) is set out in subsection 165(1) of the *Act*. This subsection provides in part as follows:

165. (1) A taxpayer who objects to an assessment under this Part may serve on the Minister a notice of objection, in writing, setting out the reasons for the objection and all relevant facts,

(a) where the assessment is in respect of the taxpayer for a taxation year and the taxpayer is an individual ..., on or before the later of

(i) the day that is one year after the taxpayer's filing-due date for the year, and

(ii) the day that is 90 days after the day of mailing of the notice of assessment; and

(b) in any other case, on or before the day that is 90 days after the day of mailing of the notice of assessment.

[8] Since the Applicant was reassessed on July 23, 2009 it is clear that the application to the Minister was not made within one year after the expiration of the time otherwise provided for filing a notice of objection to this reassessment and therefore, as a result of the provisions of paragraph 166.2(5)(a) of the *Act*, the Applicant's application to extend the time within which a notice of objection may be served in relation to the reassessment of her 2007 taxation year cannot be granted.

[9] Whether the notice of objection that was served on August 20, 2009 could be considered to also be an objection to the reassessment of the Applicant's 2007 taxation year since it referred to the total charitable donations claimed in 2006 and 2007, was not the issue before me. The only issue before me is the application by the Applicant for an extension of time within which a notice of objection may be served in relation to the reassessment of her tax liability for 2007.

[10] The application by the Applicant for an extension of the time within which a notice of objection may be served in relation to the reassessment issued under the *Act* for the Applicant's 2007 taxation year is dismissed, without costs.

Signed at Vancouver, British Columbia, this 25<sup>th</sup> day of August 2011.

“Wyman W. Webb”

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Webb, J.

CITATION: 2011TCC401  
COURT FILE NO.: 2011-1030(IT)APP  
STYLE OF CAUSE: JANETT JOHNSON AND  
HER MAJESTY THE QUEEN  
PLACE OF HEARING: Toronto, Ontario  
DATE OF HEARING: July 7, 2011  
REASONS FOR JUDGMENT BY: The Honourable Justice Wyman W. Webb  
DATE OF JUDGMENT: August 25, 2011  
APPEARANCES:

Agent for the Applicant: Courney Johnson  
Counsel for the Respondent: Alisa Apostle  
Jose Rodrigues

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent:

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