

Another Success for the WeirFoulds Tax Litigation Group

October 3, 2016

On September 28, 2016, the Tax Court of Canada released the judgment in the matter of *2187028 Ontario Inc. v. Her Majesty The Queen*. Ryan Morris, Tax Co-Chair at WeirFoulds, successfully represented the taxpayer as it was found that the funds in dispute did not represent unreported income of 2187028 Ontario Inc. (the "Taxpayer").

The Canada Revenue Agency assessed the Taxpayer for its 2012 and 2013 taxation years on the basis that the Taxpayer did not report significant income from its immigration consulting business, namely funds transferred from the in-laws of the Taxpayer's sole shareholder that went to the shareholder's and her husband's joint bank account. The position of our client was that those amounts represented financial assistance for the business of the shareholder's husband and Justice Campbell J. Miller agreed.

While we strive to resolve tax disputes early in the process, sometimes the Canada Revenue Agency cannot be swayed from its interpretation of the evidence and is either unable or unwilling to settle on agreeable terms (the CRA is only entitled to settle matters on a principled basis) and it is necessary to appeal to Tax Court. This was one of those cases.

In tax cases, the onus is on taxpayers to demolish the Minister's assumptions and proving a negative (e.g., in this case, that the funds received were not business income) is often challenging.

WeirFoulds' Tax Litigation Group represents clients at every stage of the tax dispute resolution process, from audits through to administrative appeals and at every level of court. We regularly offer clients contingency or success fee billing alternatives.

Our focus on successful tax litigation strategies includes disputes and issues that arise relating to goods and services tax and harmonized sales tax (GST/HST), provincial sales tax (PST), federal excise tax and duties, provincial land transfer taxes, and other provincial taxes, such as mining taxes. We resolve disputes that arise under the *Income Tax Act*, the *Excise Tax Act*, the *Customs Act*, the *Ontario Retail Sales Tax Act*, the *Canada Pension Plan* and the *Employment Insurance Act*.

What we do...

Tax Dispute Resolution

- make voluntary disclosures to head-off disputes and protect against penalties
- seek rectification or other remedies to avoid or assist with tax disputes
- help clients manage tax audits and respond to auditors
- represent clients with administrative appeals and at every level of court

Business Taxation

- work seamlessly as part of a multidisciplinary team to advise on the taxation aspects of business acquisitions, divestitures,

reorganizations and restructurings

- provide advice on a broad range of taxation matters of importance to Canadian and foreign business entities, including mining and resource taxation, insurance taxation, and tax aspects of financings, structured investment products and employment compensation

Cross-Border Taxation

- advise on investments, and expansion of businesses, into and out of Canada, including with respect to transfer pricing and withholding tax obligations
- advise on cross-border debt and equity offerings
- advise on tax aspects of the cross-border movement of employees and the immigration and emigration of individuals

Owner Manager Taxation and Estate Planning

- advise on and assist with implementing estate freezes
- advise on capital gains exemption planning
- advise on succession planning
- advise on and assist with implementing post-mortem tax plans

Sales and Commodity Taxation

- advise on customs duties, harmonized sales tax (HST), goods and services tax (GST), federal excise tax and duties, provincial land transfer taxes, and other provincial taxes, such as mining taxes.

Charities, NPOs and tax-exempt organizations

- Assist charities in becoming and staying registered
- Assist organizations achieving and maintaining not-for-profit or tax-exempt statu

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