

CANADA / JUDGMENT

# Chennenkunnath v. The King

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## Source record

Docket: 2024-2224(IT)I

**BETWEEN:** HAMEED M. CHENNENKUNNATH,  
Appellant,  
and  
HIS MAJESTY THE KING,  
Respondent .  
Appeal heard on March 26, 2026, and on April 24, 2026, at  
Toronto, Ontario  
Before: The Honourable Justice Lara G. Friedlander

## Appearances :

**For the Appellant:** The Appellant himself

**Counsel for the  
Respondent:** Patrick Wu

## JUDGMENT

UPON hearing the from the parties;

IN ACCORDANCE with the attached Reasons for Judgment, the appeal from the reassessment made under the Income Tax Act in respect of the Appellant's 2017 and 2018 taxation years, is allowed, without costs, and the matter is referred to the Minister of National Revenue for reconsideration and reassessment , on the following basis:

- a) All of the employment expenses in issue in this Appeal are denied, except the \$7,000 relating to flyer distribution claimed in each of the 2017 and 2018 taxation years that were conceded by the Respondent during the course of trial.
- b) All of the rental expenses in issue in this Appeal are denied.
- c) No penalties under subsection 163(2) of the Act shall be imposed on the Appellant in respect of either the 2017 or 2018 taxation years.

Signed this 17 th day of June 2026.

*"Lara Friedlander"*

Friedlander J.

Citation: 2026 TCC 112

Date: 20260617

Docket: 2024-2224(IT)I

BETWEEN:

HAMEED M. CHENNENKUNNATH,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR JUDGMENT

Friedlander J.

[ 1 ] This Appeal concerns three sets of issues. The first is whether the Minister was entitled to assess the Appellant for his 2017 taxation year after the normal reassessment period. The second is the denial by the Minister of National Revenue of \$56,776 of employment expenses claimed by the Appellant in his 2017 taxation year and \$61,722 in employment expenses claimed by the Appellant in his 2018 taxation year, less \$7,000 in each of the 2017 and 2018 taxation years in respect of flyers and telemarketing expenses, the deductibility of which was conceded by the Respondent at trial. The third is the imposition of gross negligence penalties under subsection 163(2) of the Income Tax Act (Canada) (the “Act” ).

[ 2 ] This Appeal had also concerned the denial by the Minister of \$10,423 and \$9,757 in rental expenses claimed by the Appellant in his 2017 and 2018 taxation years respectively; however, the Appellant abandoned his position regarding the rental expenses at trial.

I. Factual Background [ 3 ] In 2017 and 2018 the Appellant was employed as a car salesman by Weins Canada Inc. in Markham, Ontario, where he had been employed since the early 2000s. He sold the cars from his employer’s place of business. He was remunerated in part by commission. At one point he testified that “this is a commission job” ; at another point he stated that he earned the minimum wage in addition to his commission. The Reply indicates that the Appellant earned approximately 60% of his total compensation by commissions, which is supported – at least for the 2018 taxation year – by the Appellant’s T4. He testified that he was expected to find potential clients on his own, and that if he did not bring in enough business he would lose his job. The Appellant did not produce a contract of employment.

[ 4 ] The Appellant produced a Form T2200 from his employer for both the 2017 and 2018 taxation years. The T2200s indicate the following:

The Appellant received a motor vehicle allowance (of \$2921.73 for the 2017 taxation year and \$3,826.69 (possibly; the copy of the T2200 is somewhat blurry) for the 2018 taxation year).

The Appellant's contract of employment required him to pay his own expenses while carrying out his duties of employment.

The Appellant was normally required to travel to locations that were not the employer's place of business, or between different locations of the employer's place of business, during the course of performing his employment duties.

The Appellant was not required to be away for at least 12 consecutive hours from the municipality and metropolitan area (if any) where the Appellant normally reported for work.

The Appellant was required to pay for advertising, promotion, gifts, calls and (for 2018 only) supplies for which he did not receive any allowance or reimbursement.

The Appellant's contract of employment did not require the Appellant to rent an office away from the employer's place of business, employ a substitute or assistant or pay for supplies that the Appellant used directly in his work.

The Appellant's contract of employment did not require the Appellant to use a portion of his home for work.

The employer did not and would not reimburse the Appellant for any of his home office expenses.

The Appellant was required to pay for the use of a cell phone.

[ 5 ] The employment expenses claimed and disallowed in 2017 and 2018 were set out in the Reply as follows:

2017

2018

Employment Expenses

Claimed

Allowed

Disallowed

Claimed

Allowed

Disallowed

Accounting and legal

\$ 1,134

\$ 1,134

\$ 1,130

\$ 1,130

Advertising and promotion

\$ 1,460

\$ 1460

\$ 283

\$283

Motor vehicle expenses

\$ 24,389

\$ 2,971

\$ 21,418

\$ 23,904

\$ 3,827

\$ 20,077

Meals and entertainment

\$ 1,129

\$ 1,129

\$ 1,494

\$ 1494

Parking

\$ 200

\$ 200

\$29

\$29

Supplies

\$ 1,582

\$ -

\$1,582

\$ 248

\$ -

\$ 248

Other

\$ 24,387

\$ 226

\$ 24,161

\$29,567

\$ 863

\$ 28,704

Work space-in- the- home expenses

\$ 2,496

\$ -

\$ 2,496

\$ 5,067

\$ -

\$ 5,067

Total Employment

\$ 56,777

\$ 7,120

\$ 49,657

\$ 61,722

\$ 7,626

\$ 54,096

II. Motor Vehicle Expenses [ 6 ] With respect to motor vehicle expenses, the Appellant testified that he did sometimes have use of a “demo” car provided by his employer. The T4 for his 2018 year indicates that he received \$3,433.07 in benefits regarding the use of his employer’s automobiles (Box 34) and \$3,826.69 in taxable allowances or benefits that were not included elsewhere on the T4 (Box 40); \$3,826.69 is assumed by paragraph 15(k) of the Reply to be a non-

taxable motor vehicle allowance. Paragraph 15(i) of the Reply assumes that for 2017 the Appellant received a non-taxable motor vehicle allowance of \$2,921.73; no T4 was adduced for the 2017 taxation year. Rather oddly, there is also an assumption in paragraph 15(i) of the Reply that the Appellant received a non-taxable motor vehicle allowance of \$400 per month.

[ 7 ] The Appellant stated that he was required to bear his own expenses, and that he had to travel for his job; he gave the example of having to pick up and drop off potential clients. He admitted that he received an allowance from his employer, and at one point admitted that the amount was \$400 per month, but in general the Appellant's testimony on this point was somewhat inconsistent.

[ 8 ] The Appellant testified that he had four cars during the relevant years: a Lexus, a Toyota Highlander and two Toyota Corollas. He testified that he used all of them for business purposes. For example, he would use the Highlander if he needed to transport seven people. He conceded that the cars would sometimes be used for personal reasons, and stated that he did not keep any records regarding personal versus business usage.

[ 9 ] The Appellant provided a copy of a motor vehicle liability insurance card relating to a certificate of automobile insurance expiring January 1, 2017 for a 2016 Lexus truck/van in the names of the Appellant and Mrs. Sheeba Nazarudheen at the same address. He also provided a certificate of automobile insurance for the policy period from September 17, 2018 to March 9, 2019 for a 2008 Toyota Corolla and a 2019 Toyota Corolla in the names of the Appellant and Mrs. Nazarudheen at the same address. That document indicates a total policy premium of "no charge" .

[ 10 ] The Reply makes further assumptions regarding the Appellant's claim for motor vehicle expenses. One of the assumptions – in paragraph 15(l) of the Reply – is that the Appellant incurred motor vehicle expenses of no more than \$2,921.73 and \$3,826.69 for the 2017 and 2018 taxation years (which were the deductions previously allowed by the Respondent). Paragraph 15(j) of the Reply also assumes that the Appellant was not responsible for any motor vehicle expenses other than fuel.

[ 11 ] Other than the aforementioned certificates, the Appellant did not provide any documentary evidence of expenses relating to his cars, nor did he offer any testimony regarding specific expenses relating to his cars.

III. Supplies [ 12 ] With respect to "supplies" , these were not specifically described in the Reply and were not the subject of examination at trial. It is not clear to what this part of the Reply refers. Paragraph 15(m) of the Reply assumes that the Appellant was not required by his employer to pay for supplies for the 2017 and 2018 taxation years. Paragraph 15(n) of the Reply assumes that the Appellant did not incur supplies expenses of \$1,582 and \$248 for the 2017 and 2018 taxation years, respectively.

IV. Other Expenses [ 13 ] With respect to "other" , the expenses claimed and disallowed were set out in the Reply as follows:

2017

2018

Other expenses

Claimed

Allowed

Disallowed

Claimed

Allowed

Disallowed

Telephone/Internet/Cable

\$ 4,887

\$ 226

\$ 4,377

\$ 4,768

\$ 862

\$ 3,905

Flyers & telemarketing expenses

\$ 7,000

\$ 0

\$ 7,000

\$ 7,000

\$ 0

\$ 7,000

Marketing consulting

\$12,500

\$ 0

\$ 12,500

\$15,000

\$ 0

\$ 15,000

Laptop Computer

\$

\$

\$ 2,798

\$ 0

\$ 2,798

Total Other Expenses

\$ 24,387

\$ 226

\$24,161

\$29,566

\$ 862

\$ 28,704

[ 14 ] Counsel for the Respondent indicated during the course of the trial that the Respondent was conceding the deductibility of the \$7,000 of flyers and telemarketing expenses for each of 2017 and 2018 (and also conceded the gross negligence penalties based upon false statements associated with those claims).

[ 15 ] Paragraph 15(ff) of the Reply also assumes that the Appellant did not incur more than \$7,120 and \$7,626 in employment expenses for the 2017 and 2018 taxation years respectively. At para 15(gg) of the Reply the Respondent seems to make an assumption in the alternative that the disallowed employment expenses of \$49,657 and \$54,096 for the 2017 and 2018 taxation years, respectively, if incurred and paid were the personal and living expenses of the Appellant.

V. Telephone/Internet/Cable [ 16 ] Paragraph 15(s) of the Reply assumes that the Appellant did not incur any internet or cable expenses for the 2017 or 2018 taxation years. The Appellant stated that he had set up an office in his house but did not provide any direct evidence regarding expenses relating to internet or cable. The Appellant conceded that his contract of employment did not require him to rent an office away from his place of business, nor did it require him to have a home office.

[ 17 ] The Appellant stated that he received an allowance of \$25/month for the use of a cellphone. This is consistent with the factual assumptions made in the Reply; the Reply indicated that this allowance was non-taxable. The Appellant stated that he had both a cell phone and a landline,

and each was used for business purposes 90% of the time. There was no evidence as to whether any other occupant of the home used either of the telephones. The Appellant supported his assertion by informing the Court that he was so busy that he didn't even have time to eat. He stated that he did not keep a log recording his use of his telephones. He stated that he had an unlimited cellphone plan, but that his cell phone bill fluctuated every month; he indicated that he sometimes made long distance calls for employment purposes. The Appellant provided the first page of two Rogers invoices (the "Rogers Invoices" ); one dated August 8, 2017 showed a "wireless" amount owing of \$455.79 and one dated October 8, 2017 showed a "wireless" amount owing of \$292.90, but included no description of the "wireless" amounts. The remaining pages (11 other pages of the August invoice and 8 other pages of the October invoice) were not adduced as evidence.

[ 18 ] Paragraph 15(r) of the Reply assumes that, in addition to the non-taxable allowance referenced above, the Appellant incurred \$226 and \$862 in telephone expenses for the 2017 and 2018 taxation years respectively.

VI. Marketing Consulting [ 19 ] The Appellant stated that he hired 3-4 people to do things like cold call customers, organize his files and make calls thanking clients for their business. He stated these 3-4 people were not legally able to work in Canada, but at another point the Appellant stated that his assistants were his son and his son's friends. His memory regarding the quantum of the amounts paid and the circumstances under which they were paid was unclear. He did state that the amounts were paid in cash.

[ 20 ] The Appellant attempted to submit into evidence a single piece of paper with the heading "INVOICE 12/31/2017" and another with the heading "INVOICE 12/31/2018" (the "Marketing Consulting Invoices" ), each addressed to the Appellant. Each document had the notations "salesperson" and "various students and new comers (cash)" and then "Description" with the following in a list below: "Telemarketing, customer service, Cold calls, Visiting customers door to door, Distribution of flyers, Picking dropping customers" . The bottom of the 2017 document stated that the total for year 2017 was \$12,500 and the bottom of the 2018 document stated that the total for year 2018 was \$15,000. However, on cross-examination it became apparent that these documents were created by the Appellant and signed only by the Appellant, and at that point the Appellant quickly stated that these were not invoices, but merely record-keeping. Accordingly these documents were entered for identification only. No other documentary evidence was provided in respect of these expenses.

[ 21 ] The Appellant conceded that his contract of employment did not require him to hire a substitute or assistant. However the Appellant argued that if he did not hire an assistant then he would not have had time to be able to undertake the other business development activities that, he testified, were necessary to attract sufficient business to keep his job.

[ 22 ] There seemed to be some confusion in the Reply as between the flyers and telemarketing expenses of \$7,000 for each of 2017 and 2018 (conceded by the Respondent) and the marketing consulting expenses (not conceded by the Respondent). The Reply makes assumptions in

paragraphs 15(u) and (v) regarding flyers and telemarketing expenses. The Reply also makes assumptions in paragraphs 15(y), (z) and (aa) under the heading “Marketing Consulting” , but these appear to relate to flyer distribution. Paragraph 15(bb) of the Reply does assume that the Appellant did not incur the claimed marketing consulting expenses of \$12,500 for each of the 2017 and 2018 taxation years (although I note that paragraph 15(o) of the Reply indicates that \$15,000 in marketing consulting expenses were claimed and denied in the 2018 taxation year, not \$12,500).

VII. Laptop Computer [ 23 ] With respect to the laptop computer, the Appellant stated that he used it for marketing, and for replying to emails from potential clients in a timely manner. He explained that if a potential client emailed him at night and he did not reply right away, he might lose the sale and the referral. The Appellant submitted part of an invoice (the “Laptop Computer” ) to the Court which indicated a total of \$2,798.41 spent, with \$2,249.99 spent on “SURFCE I7Q/16/512 EN” . It also references “SURF ARC MSE GRY” (which appears to be a mouse) and “SURFACE PEN” as well a “GSP+ 5YR HYBRID” . The first page of the invoice was not submitted, but the Appellant indicated that it was from Best Buy. The name of the vendor was not on the page submitted, but the invoice did reference the “Geek Squad” toll-free number. The invoice had a date of 08/19/18.

[ 24 ] The Appellant did not provide any evidence as to why it was necessary to reply to clients using a laptop computer rather than his cellphone.

[ 25 ] There were no assumptions in the Reply specifically regarding the laptop computer.

VIII. Work Space in the Home [ 26 ] With respect to “work-space-in-in-home expenses” , these expenses were not identified in the Reply or in the course of examinations, and therefore it is not clear to what expenses this part of the Reply refers.

[ 27 ] Paragraph 15(ee) of the Reply states that the Appellant did not incur work-in-the-home expenses of \$2,496 and \$5,067 for the 2017 and 2018 taxation years respectively.

[ 28 ] The Appellant also entered into evidence an invoice (the “MAS Receipt” ) for \$250.00 for the sponsorship of a soccer tournament from the Malayali Association of Scarborough, but it was not clear that this expense had been denied by the Minister. Rather, it appeared that this invoice was being tendered as an example of the kinds of business development activities undertaken by the Appellant.

IX. Preparation of Returns and Assessments [ 29 ] Regarding the preparation of his tax returns, the Appellant indicated that he had provided the relevant information to his accountant, that the returns were prepared by his accountant very close to the filing deadline, and that there was no time to thoroughly review the returns or to ask questions. He testified that he did review his returns, but “not 100%” due to time constraints. The Appellant stated that he thought he was entitled to the deductions he claimed notwithstanding that they were not supported by the T2200s.

[ 30 ] The notice of assessment for the Appellant's 2017 taxation year was dated May 10, 2018. The reassessments which gave rise to the issues under consideration in this Appeal were issued, for both the 2017 and 2018 taxation years, by notices dated December 13, 2021 (the "2021 Notice of Reassessment"). A further reassessment was issued by a notice dated March 3, 2023 (the "2023 Notice of Reassessment") to allow a portion of the rental losses claimed for the 2017 taxation year. The Respondent concedes that the 2021 Notice of Reassessment was sent after the termination of the "normal reassessment period" for the 2017 taxation year.

[ 31 ] The Respondent had also initially alleged that the Appeal as it related to the 2017 taxation year should be quashed on the basis that a valid notice of objection had not been filed, but this argument was heard by this Court in a prior proceeding, and resulted in an Order of this Court indicating that the notice of objection had been validly filed.

X. Employment Expenses A. Legal Framework [ 32 ] Subsection 8(2) of the Act provides that no deductions shall be made in computing a taxpayer's income for taxation from an office or employment unless permitted by section 8 of the Act.

[ 33 ] The provisions of section 8 that could potentially permit deductions in this Appeal are paragraphs 8(1)(f), 8(1)(h.1) and 8(1)(i)(i)(ii) and (iii), which are set out in the Appendix to these Reasons.

[ 34 ] Two limiting provisions in section 8 are also relevant to this Appeal. First, subsection 8(10) provides the following:

An amount otherwise deductible for a taxation year under paragraph (1)(c), (f), (h) or (h.1) or subparagraph (1)(i)(ii) or (iii) by a taxpayer shall not be deducted unless the taxpayer's employer confirms in prescribed form that the conditions set out in the applicable provision were met in the year in respect of the taxpayer and the form is filed with the taxpayer's return of income for the year.

[ 35 ] Second, subsection 8(13) provides the following in relevant part:

- (13) Notwithstanding paragraphs 8(1)(f) and 8(1)(i),
- (a) no amount is deductible in computing an individual's income for a taxation year from an office or employment in respect of any part (in this subsection referred to as the "work space") of a self-contained domestic establishment in which the individual resides, except to the extent that the work space is either
  - (i) the place where the individual principally performs the duties of the office or employment, or
  - (ii) used exclusively during the period in respect of which the amount relates for the purpose of earning income from the office or employment and used on a regular and continuous basis for meeting customers or other persons in the ordinary course of performing the duties of the office or employment...

B. Some General Introductory Comments [ 36 ] Before continuing, I wish to comment briefly on the Appellant's credibility. I expect that there was some truth in the Appellant's testimony, but my impression was that the Appellant had a tendency to exaggerate and to omit key facts. For example, the Appellant's assertion that he needed four different cars for business purposes seemed implausible. The Appellant's assertion that 90% of his cell phone usage was business related because he was so busy that he had no time to eat was implausible. The Appellant's assertion that he incurred several hundred dollars of cell phone expenses each month for a client base that, presumably, was largely based in and around the area where his employer was located, was also implausible, particularly given that the Appellant stated that he had an unlimited plan. (The Appellant did state that he sometimes had to make long distance calls, but did not provide any detail as to why this was necessary for his employment or how often it occurred.) His attempt to submit the Marketing Consulting Invoices as evidence of relatively large amounts paid was also harmful to his credibility. Accordingly I did not find the Appellant to be a credible witness.

[ 37 ] Regarding certain assumptions in the Reply, as stated above, paragraph 15(ff) of the Reply assumes that the Appellant did not incur more than \$7,120 and \$7,626 in employment expenses for the 2017 and 2018 taxation years, respectively (which were the expenses previously allowed by the Respondent) but then paragraph 15(gg) of the Reply assumes in the alternative that the previously disallowed employment expenses of \$49,657 and \$54,096 for the 2017 and 2018 taxation years, respectively (which, by necessary implication were assumed in paragraph 15(ff) not to have been incurred), if incurred and paid, were the personal and living expenses of the Appellant. In *Loewen v The Queen*, 2004 FCA 146 (leave to appeal to SCC denied), the Federal Court of Appeal stated at paragraph 9 as follows: "It is the obligation of the Crown to ensure that the assumptions paragraph is clear and accurate. For example, the Crown cannot say that the Minister assumed, when making the assessment, that a certain car was green and also that the same car was red, because it is impossible for the Minister to have made both of those assumptions at the same time." In this case, the Minister has simultaneously assumed that the disallowed expenses were not incurred, and that, if they were incurred, they were personal and living expenses. It is not possible for the Minister to have made both of these assumptions.

[ 38 ] Accordingly, I am disregarding the assumption in paragraph 15(gg), as it has been phrased as an alternative assumption.

[ 39 ] I also wish to note that, as an alternative argument, the Respondent argued that the Appellant's expenses were not reasonable, as required by section 67 of the Act. No factual assumptions were made in the Reply regarding reasonableness. There was no material direct evidence on a lack of reasonableness with respect to the price or rate of any particular expense adduced during cross-examination.

XI. Analysis – Motor Vehicle Expenses [ 40 ] I deny the Appellant's claim for a deduction of motor vehicle expenses for the following reasons.

[ 41 ] First, as stated above, the Respondent assumed that the Appellant did not incur any such expenses other than the amounts already allowed by the Respondent. At trial the Appellant presented no documentation in respect of any motor vehicle expenses, and did not provide any testimony regarding any specific expenses claimed (such as amounts, vendors or the circumstances under which a particular expense was incurred). I am required to accept factual assumptions made in the Reply unless the Appellant persuades the Court, on a balance of probabilities, that those assumptions are incorrect. (See *Hickman Motors Ltd. v Canada* , [1997] 2 SCR 336 at paragraphs 92-94.) Here the Appellant has not shown, on a balance of probabilities, that the Respondent's assumption that no motor vehicle expenses were incurred in excess of the deductions already allowed by the Respondent was incorrect.

[ 42 ] In addition, the statutory requirements for deductibility have not been met.

[ 43 ] There are two provisions of the Act under which the Appellant could potentially deduct his motor vehicle expenses: paragraph 8(1)(f) and paragraph 8(1)(h.1).

[ 44 ] With respect to paragraph 8(1)(f), one of the requirements is that the Appellant was required to pay his own expenses. However, the Appellant did not produce his employment contract, nor was there coherent testimony as to the contents of that contract. As well, I note that the T2200s produced did not indicate that the Appellant was responsible for motor vehicle expenses, and therefore the requirement in subsection 8(10) was not met. Finally, the certificates of insurance indicate that another person in the same household was listed as an insured, suggesting that at least some of the automobiles were used by someone else – and therefore presumably not for the purpose of earning income from Appellant's employment, as required by paragraph 8(1)(f). There was no evidence regarding the allocation of usage of the cars as between employment and other purposes. Accordingly, a number of requirements for deductibility under paragraph 8(1)(f) were not met.

[ 45 ] I note that one of the requirements of paragraph 8(1)(f) is that the taxpayer be "ordinarily required to carry on the duties of the employment away from the employer's place of business" . The Appellant did provide testimony regarding his activities away from the car dealership, including with respect to marketing and contact with clients, and suggested that these activities were necessary to obtain clients and therefore keep his job. This argument was accepted in *Verrier v Minister of National Revenue* , 90 D.T.C. 6202 (FCA), and no argument to the contrary was made by the Respondent in this case; accordingly, I do not consider this requirement further here. In addition, paragraph 8(1)(f) allows a deduction only where the taxpayer is not in receipt of an allowance for travel expenses in respect of the taxation year that was, by virtue of subparagraph 6(1)(b)(v), not included in computing the taxpayer's income. However the Minister's assumption that the Appellant received a non-taxable allowance is not consistent with the T4 for the 2018 taxation year that indicates a taxable allowance, and therefore I do not consider this aspect of paragraph 8(1)(f) further.

[ 46 ] With respect to paragraph 8(1)(h.1) of the Act, that provision also requires that the taxpayer be required to pay for the motor vehicle expenses under the contract of employment and that the taxpayer did not receive an allowance for motor vehicle expenses that was, by virtue of paragraph 6(1)(b), not included in computing the taxpayer's income for the year. For the reasons already set out regarding paragraph 8(1)(f), as applicable, paragraph 8(1)(h.1) also does not permit the deductibility of the Appellant's motor vehicle expenses, were they found to have been incurred.

XII. Analysis – Supplies and Work-Space-in-the-Home [ 47 ] The Reply did not identify any specific supplies, other than indicating that they were claimed in the amounts of \$1,582 and \$248 for the 2017 and 2018 taxation years respectively. Paragraph 15(n) of the Reply assumes that the Appellant did not incur supplies expenses of \$1,582 and \$248 for the 2017 and 2018 taxation years, respectively. Similarly the Reply did not identify any specific "work-space-in-the-home" expenses, other than indicating that they were claimed in the amounts of \$2,496 and \$5,067 in the 2017 and 2018 taxation years respectively and assuming that the Appellant did not incur work-space-in-the-home expenses of \$2,496 and \$5,067 for the 2017 and 2018 taxation years, respectively.

[ 48 ] There is some evidence that might have been relevant to the deductibility of such expenses. As stated above, the T2200s do indicate that the Appellant was responsible for some expenses, and indeed the T2200 for the 2018 taxation year specifically mentions "supplies" and both T2200s specifically mention "advertising" and "calls". As the expenses are not specifically identified in the Reply and were not specifically discussed during the course of examinations, I am not able to evaluate their deductibility; the fact that the Reply identifies certain expenses as "supplies" or "work-in-the-home expenses" does not necessarily mean that they are actually expenses the deductibility of which would be governed by paragraph 8(1)(i) (or 8(1)(i) only). Indeed, it is possible that the Appellant might also have had difficulty identifying which expenses were in issue under that heading, although the Appellant did not make that argument in the Notice of Appeal or at trial. It is also possible that the only description of those expenses that was provided to the Respondent was "supplies" or "work-space-in-the-home", but facts in support of this scenario were not assumed in the Reply and evidence in support of this scenario was not adduced at trial.

[ 49 ] However, the Reply does identify specific amounts of expenses and assumes that those expenses were not incurred. Given that the Appellant did not provide any evidence – whether documentary or verbal of any particular employment expenses being incurred other than those specifically discussed under other headings in these reasons and other than the MAS Receipt, I find that the Appellant has not demolished the Respondent's assumptions that "supplies" and "work-space-in-the-home" expenses – whatever those may be – were not incurred and therefore no further inquiry is needed for me to conclude that expenses were not deductible.

XIII. Analysis – Telephone/Internet/Cable [ 50 ] As stated above, the Respondent assumed that the Appellant did not incur any cable or internet expenses, and assumed that the Appellant incurred \$226 and \$862 in telephone expenses for the 2017 and 2018 taxation years respectively; those latter expenses were previously allowed as deductions by the Respondent. At trial the only evidence adduced by the Appellant on this topic was the Rogers Invoices. The Rogers Invoices

total approximately \$750, and relate only to two months in the 2017 taxation year. Accordingly, the Appellant has not demolished the Respondent's assumption that no telephone expenses were incurred in excess of the deductions already allowed by the Respondent, except to the extent that the \$750 exceeds the \$226 in telephone expenses allowed by the Respondent for the 2017 taxation year.

[ 51 ] I note that the statutory provision under which these expenses could potentially be deducted – namely subparagraph 8(1)(i)(iii) – requires that the supplies in question must have been consumed directly in the performance of the duties of the office or employment and that the employee was required by the contract of employment to supply and pay for these supplies. As stated above, the Appellant did not produce his contract of employment, although I do note that the T2200s – which are required for deductions under subparagraph 8(1)(i)(iii) – do indicate that the Appellant was responsible for expenses relating to “calls” . With respect to the usage of the cellphone directly in the performance of his duties, I note that the Rogers Invoices were not complete; they did not include any description of the amounts paid except to describe them as being for “wireless” . It is not possible to ascertain how much of these invoices refer to items that related to the Appellant's employment or to other activities. The Appellant admitted that the cellphone was used for personal purposes at times and estimated that 10% of the usage of his cellphone was for personal purposes, but I find that assertion to be implausible – meaning that the 10% estimate is too low - given the local nature of the Appellant's job, the fact that the Appellant had an “unlimited” plan, my serious doubts as to the Appellant's credibility as a witness and the lack of any documentary evidence regarding personal versus business usage.

[ 52 ] Accordingly, I find that the evidence does not sufficiently support the view that the excess of the \$750 incurred during the two months covered by the Rogers Invoices over the \$226 allowed by the Respondent for the entire 2017 taxation year relates to the Appellant's employment activities. I therefore deny the Appellant's deductions for telephone/internet/cable expenses.

XIV. Analysis – Marketing Consulting [ 53 ] As stated above, the Reply assumes that the Appellant did not incur the claimed marketing consulting expenses of \$12,500 for each of the 2017 and 2018 taxation years. [1] Subject to the Marketing Consulting Invoices, which were entered into evidence for identification purposes only, the Appellant did not provide any documentary evidence to support these claims and his testimony, which I have already found not to be credible, was vague and somewhat confused. Accordingly I find that the Appellant has not demolished the Respondent's assumption that these expenses were not incurred.

[ 54 ] The statutory provision under which deductions for this type of expense could potentially be deducted is, again, subparagraph 8(1)(i)(iii) which, again, provides that the expenses be required under the contract of employment. The Reply assumes that the Appellant was not required to hire assistants, although it is possible that the employment contract did specify that the Appellant was required to do his own marketing (or some similar clause), and therefore it is not clear to me that the assumption in the Reply is sufficient evidence that the Appellant was not required by his contract of employment to incur these expenses. Again the employment agreement was not produced at trial, but the T2200s do state that the Appellant was responsible

for expenses relating to “advertising, promotion, gifts” . Further there is case law suggesting that there might be an implicit term in the employment contract that certain expenses must be incurred. (See, recently, paragraph 20 of *Samotus v The King* , 2025 TCC 104.).

[ 55 ] Given that I have already concluded there is insufficient evidence to demonstrate that the relevant expenses were actually incurred, and that neither the evidence adduced by the Respondent (including the factual assumptions in the Reply) nor the evidence adduced by the Appellant is particularly helpful regarding deductibility, I decline to reach a finding as to whether the statutory requirements for deductibility of these expenses have been satisfied, were it to be determined that the relevant expenses were in fact incurred.

XV. Analysis – Laptop Computer [ 56 ] The Reply makes no assumptions regarding the laptop computer, except for the more general assumptions made in paragraphs 15(ff) and (gg) above (the latter of which I have disregarded, as per my comments above).

[ 57 ] The main argument of the Respondent is that the laptop computer is not deductible under subparagraph 8(1)(i)(iii) of the Act because it is on capital account. The Respondent asks the Court to take judicial notice of the concept that laptop computers are typically capital items for individuals. There was also some discussion regarding the T2200 requirement.

[ 58 ] The Appellant did produce the Laptop Receipt which, although incomplete, is, in my view, sufficient to support the position that the laptop computer and certain associated items were purchased for \$2,798 in 2018.

[ 59 ] There is some case law of this Court supporting the view that a laptop computer is typically on capital account for an individual (see, for example, *Li v The King* , 2023 TCC 77 and *Perera v The Queen* , 2014 TCC 280), although one can imagine scenarios where this would not be the case. Here, however, there were no factual assumptions pleaded in the Reply and there was no evidence adduced – even on cross-examination – on this point. Further, most importantly, the argument that the cost of the laptop computer could not be deducted as it was a capital expense was not explicitly made in the Reply. Given the absence of any specific indication in the Reply – whether in the factual assumptions or the grounds relied on – as to the capital property argument and given that I am able to decide this point on other bases, I decline to consider whether the Appellant’s laptop was a capital property to him.

[ 60 ] I have considered deductibility of the laptop under both paragraph 8(1)(f) and subparagraph 8(1)(i)(iii) of the Act. Subparagraph 8(1)(f)(i) requires that the Appellant be required to pay for his own expenses, and subparagraph 8(1)(i)(iii) requires that the supply be required by the contract of employment to be supplied and paid for. A T2200 is required for both provisions. As stated many times above, the contract of employment was not produced. Further, although the Appellant testified that he was required to bear his own marketing expenses – and indeed the T2200s do support this position – the only evidence produced by the Appellant to support the view that the laptop was necessary for him to be able to market his services sufficiently was that he needed to be able to check emails remotely. Given that emails can be checked on a cellphone, which was already in the possession of the Appellant when he bought the laptop, and that no

employment agreement was produced, I find that the purchase of a laptop was not required nor contemplated by the Appellant's contract of employment. In addition, paragraph 8(1)(f) requires that the amount be expended by the taxpayer in the year for the purpose of earning the income from employment, and subparagraph 8(1)(i)(iii) requires that the supply be consumed directly in the performance of the duties of employment. I find that the laptop computer – even if it were used to reply to the occasional email – does not meet either of these requirements to any material degree. Accordingly, I find that the cost of the laptop is not deductible to the Appellant.

A. Limitation Period [ 61 ] As relevant to this Appeal, subsection 152(3.1) of the Act provides that the “normal reassessment period” for an individual is the period that ends three years after the earlier of the day of sending of a notice of an original assessment. Subsection 244(14) of the Act provides for the purposes of subsection 152(3.1), a notice of assessment is presumed to be sent on the date of the notice. As the notice of assessment for the Appellant's 2017 taxation year was dated May 10, 2018, the 2021 Notice of Reassessment and the 2023 Notice of Reassessment were sent after the expiry of the Appellant's normal reassessment period. This is conceded by the Minister.

[ 62 ] The Minister takes the view that the 2021 Notice of Reassessment and the 2023 Notice of Reassessment were valid reassessments on the basis of subparagraph 152(4)(a)(i), which provides that the Minister may make a reassessment after a taxpayer's normal reassessment period where the taxpayer or the person filing the return “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” . The burden of establishing that the misrepresentation occurred and that it was attributable to neglect, carelessness or wilful default is on the Minister. See, for example, *Peach v The Queen* , 2020 TCC 12 at paragraph 72.

[ 63 ] As stated by the Court in *Nesbitt v Canada* , 96 D.T.C. 6588 (F.C.A.) at paragraph 8, “[a] misrepresentation has occurred if there is an incorrect statement on the return form, at least one that is material to the purposes of the return and to any future reassessment.” See also *Minister of National Revenue v Foot* , [1964] C.T.C. 317 (Ex. Ct.) and *Minister of National Revenue v. Taylor* , [1961] C.T.C. 211 (Ex. Ct.), among many others. As this Court commented at paragraph 20 in *Francis & Associates v The Queen* , 2014 TCC 137, “the threshold to establish a misrepresentation is low” . In this case I have already found that the Appellant claimed a number of deductions to which he was not entitled; accordingly misrepresentations have occurred.

[ 64 ] The extended reassessment period is only available under subparagraph 152(4)(a)(i) of the Act if the misrepresentation is, at the very least, attributable to neglect or carelessness “Neglect” has been interpreted to refer to the situation where a taxpayer has not exercised reasonable care. See *Venne v The Queen* , 84 D.T.C. 6247 (F.C.T.D.) and *The Queen v Paletta* , 2022 FCA 86 (leave to appeal to SCC denied), for example. In this case the Appellant himself admitted that his tax return was provided to him by his accountant very shortly before the filing deadline and that he did not have sufficient time to review it entirely; he gave no evidence that he checked the return after filing to ensure its correctness. There are a number of other indications of a lack of reasonable care, including the absence of any attempt to allocate the usage of his cars, cell phone

and laptop as between personal and employment purposes, the absence of appropriate receipts and the lack of appropriate record-keeping regarding his payments to his assistants. I find that the Appellant made misrepresentations attributable to a lack of reasonable care, and that therefore the Minister was entitled to reassess the Appellant's 2017 and 2018 taxation years beyond the normal reassessment period.

B. Gross Negligence [ 65 ] The penalty for gross negligence is found in subsection 163(2) of the Act, which reads in relevant part as follows:

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

(a) the amount, if any, by which

(i) the amount, if any, by which

(A) the tax for the year that would be payable by the person under this Act

exceeds

(B) the amounts that would be deemed by subsections 120(2) and (2.2) to have been paid on account of the person's tax for the year

if the person's taxable income for the year were computed by adding to the taxable income reported by the person in the person's return for the year that portion of the person's understatement of income for the year that is reasonably attributable to the false statement or omission and if the person's tax payable for the year were computed by subtracting from the deductions from the tax otherwise payable by the person for the year such portion of any such deduction as may reasonably be attributable to the false statement or omission

exceeds

(ii) the amount, if any, by which

(A) the tax for the year that would have been payable by the person under this Act

exceeds

(B) the amounts that would be deemed by subsections 120(2) and (2.2) to have been paid on account of the person's tax for the year

had the person's tax payable for the year been assessed on the basis of the information provided in the person's return for the year ...

[ 66 ] The burden of proving the facts justifying a subsection 163(2) penalty is on the Minister (see subsection 163(3) of the Act).

[ 67 ] I will focus here primarily on whether the Respondent has met his burden with respect to the requirement in subsection 163(2) that a false statement be made “knowingly, or under circumstances amounting to gross negligence” . The Respondent argues that the Appellant ought to have made further inquiries of his accountant or others regarding deductibility requirements, ought to have obtained appropriate receipts and ought to have known that the T2200s produced were inadequate. Counsel for the Respondent did not make any arguments regarding the Marketing Consulting Invoices specifically.

[ 68 ] “Knowingly”- which includes being deemed to know as a result of being wilfully blind (see, for example, *Torres v The Queen* , 2013 TCC 380, aff’d at 2015 FCA 60) - and “under circumstances amounts to gross negligence” are two different standards. These two standards were described in one of the leading cases on point, *Wynter v The Queen* , 2017 FCA 195 in these passages from paragraphs 12-13 and 18-21:

The distinction between gross negligence—determined by an objective assessment of the comportment of the taxpayer—and wilful blindness—determined by reference to the taxpayer's subjective state of mind—has a long history. Admittedly, it is, on occasion, a fine distinction and one that is not always clearly drawn. Nonetheless, Parliament is taken to have been cognizant of the distinction.

A taxpayer is wilfully blind in circumstances where the taxpayer becomes aware of the need for inquiry but declines to make the inquiry because the taxpayer does not want to know, or studiously avoids, the truth. The concept is one of deliberate ignorance: *R. v. Briscoe*, 2010 SCC 13 (S.C.C.) at paras. 23-24, [2010] 1 S.C.R. 411 (S.C.C.) (*Briscoe*); *Sansregret* at para. 24. In these circumstances, the doctrine of wilful blindness imputes knowledge to a taxpayer: *Briscoe* at para. 21. Wilful blindness is the doctrine or mechanism by which the knowledge requirement under subsection 163(2) is met....

Gross negligence is distinct from wilful blindness. It arises where the taxpayer's conduct is found to fall markedly below what would be expected of a reasonable taxpayer. Simply put, if the wilfully blind taxpayer knew better, the grossly negligent taxpayer ought to have known better.

Gross negligence requires a higher degree of neglect than a mere failure to take reasonable care. It is a marked or significant departure from what would be expected. It is more than carelessness or misstatements. The point is captured in the decision of this Court in *Zsoldos v. R.*, 2004 FCA 338 (F.C.A.) at para. 21, 2004 D.T.C. 6672 (F.C.A.)

In assessing the penalties for gross negligence, the Minister must prove a high degree of negligence, one that is tantamount to intentional acting or an indifference as to whether the law is complied with or not. (See *Venne v. R.* (1984), 84 D.T.C. 6247 (Fed. T.D.), at 6256.)

There is no question that, while conceptually different, gross negligence and wilful blindness may merge to some extent in their application. A taxpayer who turns a blind eye to the truth and accuracy of statements made in their income tax return is wilfully blind, and is also grossly negligent. The converse is not, however, necessarily true. A grossly negligent taxpayer is not

necessarily wilfully blind. The possibility of this dual characterization of the same conduct may, on occasion, give rise to imprecision in the jurisprudence in the description of the alternative ways in which the Crown may meet its burden. Similarly, the common practice of referring to penalties imposed under subsection 163(2) as “gross negligence penalties” blurs the fact that the penalties may arise under either the knowledge or gross negligence heading. This ought to be avoided. What is at issue under subsection 163(2) is a penalty, which may be imposed either by a finding of knowledge or a finding of gross negligence.

While subjective considerations may play a role in either analysis, gross negligence is determined with reference to an objective test. In particular, where gross negligence is alleged, I would expect consideration of whether the conduct of the taxpayer at issue is such a marked departure from what would be expected that it constitutes a high degree of negligence sufficient to be characterized as a marked departure from the standards, practices, and due diligence expected of a responsible taxpayer. The cautionary words of the Supreme Court of Canada in *Guindon*, at paragraph 61, are equally applicable here; these penalties “are meant to capture serious conduct, not ordinary negligence or simple mistakes”.

[ 69 ] The Respondent argues that the Appellant was both wilfully blind and gross negligent. The Respondent argues that both of these thresholds were met because the Appellant ought to have questioned his accountant or others regarding the requirements of the deductibility of employment expenses, ought to have obtained appropriate receipts and ought to have seen that the T2200s were insufficient to support the Appellant’s deductions. The Respondent did not cite the Marketing Consulting Invoices specifically in his arguments.

[ 70 ] Beginning with knowledge/wilful blindness, no evidence was adduced to show that the Appellant actually knew that any false statements were being made. Regarding wilful blindness, *Torres* is often relied upon by this Court in setting out the factors to be taken account. Paragraph 65 of that decision states, in part:

...

- c) In determining wilful blindness, consideration must be given to the education and experience of the taxpayer.
- d) To find wilful blindness there must be a need or a suspicion for an inquiry.
- e) Circumstances that would indicate a need for an inquiry prior to filing, or flashing red lights as I called it in the *Bhatti* decision, include the following:
  - ii) the magnitude of the advantage or omission;
  - ii) the blatantness of the false statement and how readily detectable it is;
  - iii) the lack of acknowledgment by the tax preparer who prepared the return in the return itself;
  - iv) unusual requests made by the tax preparer;

- v) the tax preparer being previously unknown to the taxpayer;
  - vi) incomprehensible explanations by the tax preparer;
  - vii) whether others engaged the tax preparer or warned against doing so, or the taxpayer himself or herself expresses concern about telling others.
- f) The final requirement for wilful blindness is that the taxpayer makes no inquiry of the tax preparer to understand the return, nor makes any inquiry of a third party, nor the CRA itself.

[ 71 ] In this case the Respondent has not provided sufficient evidence to show that there were “flashing red lights” . The magnitude of the expenses for the 2017 and 2018 taxation years in issue in this Appeal, net of those conceded by the Respondent during the course of trial, is certainly high, but still low enough to leave the Appellant with some net income from commissions after expenses, and a material amount of net income from total compensation from his employment, net of expenses, and therefore – at least in the absence of further context (which are not provided at trial) - is not so high as to raise loud alarm bells. Indeed, it is quite possible that all of these amounts were actually spent by the Appellant – and perhaps even that a significant proportion of those funds were spent on marketing and other employment-related activities; rather, the issues here relate to faulty or non-existent documentation and the Appellant’s rather aggressive approach to the characterization of expenses as being related to employment rather than being personal. There was no evidence adduced by the Appellant regarding whether the expenses claimed were blatant or readily detectable in comparison to the many previous years, or subsequent years, when the Appellant likely would have claimed somewhat similar expenses, or whether the quantum of these expenses was in line with expenses claimed by others in the field.

[ 72 ] The Appellant’s tax returns were not introduced into evidence. There was very little evidence adduced regarding the communications between the Appellant and his accountant; it appeared – although this was far from clear – that this was not the first time the Appellant had used this accountant. It was more clear that the Appellant provided whatever information he could to his accountant, who then assembled the tax returns and sent them to the Appellant for his review. There was no evidence regarding unusual requests made by the tax preparer, nor incomprehensible explanations provided by the tax preparer, nor warnings or concerns regarding the tax preparer. At no point did the Appellant suggest that his accountant had made any errors or made false statements without direction from the Appellant. There was no evidence led as to whether the Appellant reviewed the returns after they were filed, or whether the Appellant had any concerns regarding the returns. But in general, during the Appellant’s testimony, the Appellant seemed to be of the view that he was entitled to all of the deductions claimed.

[ 73 ] The Appellant was certainly careless, disorganized, fiscally aggressive and overly optimistic and, in my view, negligent. However the standard for wilful blindness is high, and the evidence adduced does not support the view that the Appellant was studiously avoiding the truth, or deliberately ignorant.

[ 74 ] The Marketing Consulting Invoices did cause me a great deal of concern. However, no evidence was adduced as to whether those documents were previously submitted to the CRA and claimed as invoices or the circumstances under which they were prepared or any similar matter, and counsel for the Respondent made no specific arguments on that point. Accordingly, I do not have sufficient evidence with respect to the Marketing Consulting Invoices to evaluate them in the context of subsection 163(2).

[ 75 ] I therefore find that the Appellant was not wilfully blind.

[ 76 ] Regarding gross negligence, as stated above, the test here is whether the Appellant's behaviour was a marked departure from that of a responsible taxpayer. Mere negligence is not sufficient. And again as stated above, it is quite possible that the Appellant actually did incur all the expenses claimed, and that a good proportion of them were actually made in the course of his employment. Indeed, the Appellant's description of his employment context and his expenses are quite reminiscent of those described in Verrier , where the taxpayer was ultimately successful at the Federal Court of Appeal. I also acknowledge that keeping adequate records for cash payments, such as those alleged to have been made in respect of marketing consulting, or to record employment versus personal uses, can be challenging. That is not to say that the absence of such record keeping will be ignored by a court when evaluating deductibility (as it was not ignored in this decision), but rather than under some circumstances the absence of written documentation may not rise to the level of gross negligence. The argument that a reasonable person would have not claimed employment expenses without appropriate T2200s is also not compelling given that the T2200s do in fact contemplate that the Appellant was responsible for his own marketing expenses. If the Appellant did not fully understand how the T2200s were to be interpreted, or didn't review them in great detail – and I note that minimal evidence was adduced on that point – that did not rise to the level of gross negligence. Accordingly, as above, I find that the behaviour of the Appellant in respect of his 2017 and 2018 income tax returns was careless, disorganized, fiscally aggressive and overly optimistic and negligent, but did not rise to the level of gross negligence.

[ 77 ] For the reasons set out above, I allow the Appeal, without costs, and refer the matter back to the Minister of National Revenue for reconsideration and reassessment on the following basis:

- a) All of the employment expenses in issue in this Appeal are denied, except the \$7,000 relating to flyer distribution claimed in each of the 2017 and 2018 taxation years that were conceded by the Respondent during the course of trial.
- b) All of the rental expenses in issue in this Appeal are denied.

- c) No penalties under subsection 163(2) of the Act shall be imposed on the Appellant in respect of either the 2017 or 2018 taxation years.

Signed this 17 th day of June 2026.

*“Lara Friedlander”*

Friedlander J.

## Appendix A

8 (1) In computing a taxpayer’s income for a taxation year from an office or employment, 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

...

- (f) where the taxpayer was employed in the year in connection with the selling of property or negotiating of contracts for the taxpayer’s employer, and
- (i) under the contract of employment was required to pay the taxpayer’s own expenses,
- (ii) was ordinarily required to carry on the duties of the employment away from the employer’s place of business,
- (iii) was remunerated in whole or part by commissions or other similar amounts fixed by reference to the volume of the sales made or the contracts negotiated, and
- (iv) was not in receipt of an allowance for travel expenses in respect of the taxation year that was, by virtue of subparagraph 6(1)(b)(v), not included in computing the taxpayer’s income, amounts expended by the taxpayer in the year for the purpose of earning the income from the employment (not exceeding the commissions or other similar amounts referred to in subparagraph 8(1)(f)(iii) and received by the taxpayer in the year) to the extent that those amounts were not
- (v) outlays, losses or replacements of capital or payments on account of capital, except as described in paragraph 8(1)(j),
- (vi) outlays or expenses that would, by virtue of paragraph 18(1)(l), not be deductible in computing the taxpayer’s income for the year if the employment were a business carried on by the taxpayer, or
- (vii) amounts the payment of which reduced the amount that would otherwise be included in computing the taxpayer’s income for the year because of paragraph 6(1)(e)
- (h.1) where the taxpayer, in the year,
- (i) was ordinarily required to carry on the duties of the office or employment away from the employer’s place of business or in different places, and

(ii) was required under the contract of employment to pay motor vehicle expenses incurred in the performance of the duties of the office or employment,

amounts expended by the taxpayer in the year in respect of motor vehicle

expenses incurred for travelling in the course of the office or employment, except where the taxpayer

(iii) received an allowance for motor vehicle expenses that was, because of paragraph 6(1)(b), not included in computing the taxpayer's income for the year, or

(iv) claims a deduction for the year under paragraph 8(1)(f)

(i) an amount paid by the taxpayer in the year, or on behalf of the taxpayer in the year if the amount paid on behalf of the taxpayer is required to be included in the taxpayer's income for the year, as...

(ii) office rent, or salary to an assistant or substitute, the payment of which by the officer or employee was required by the contract of employment,

(iii) the cost of supplies that were consumed directly in the performance of the duties of the office or employment and that the officer or employee was required by the contract of employment to supply and pay for...

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APPEARANCES:

For the Appellant:

The Appellant himself

Counsel for the Respondent:

Patrick Wu

COUNSEL OF RECORD:

For the Appellant:

Name:

N/A

Firm:

N/A

For the Respondent:

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Deputy Attorney General of Canada

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[ 1 ] I considered whether the inconsistency in the Reply regarding the marketing consulting expenses in 2018 – namely that paragraph 15(o) of the Reply refers to \$15,000 of expenses but the assumptions in paragraph 15(w) and (bb) speak to the claiming and incurring (respectively) of only \$12,500 of expenses – leads to the conclusion that the Respondent did not assume that \$2,500 differential of expenses were not incurred. However, the fact that paragraph 15(w) (stating the quantum of expenses claimed) is a different number than the number in paragraph 15(o)) suggests that there is an error or typo in one of these paragraphs. Further, paragraph 15(ff) assumes that the Appellant did not incur more than \$7,626 in employment expenses in 2018 (i.e., those expenses already allowed by the Minister), thereby implicitly addressing the \$15,000 rather than the \$12,500 in the 2018 taxation year. The Marketing Consulting Invoices produced by the Appellant refer to a \$15,000 number, and neither party referred to the aforementioned contradiction in the Reply. Accordingly, I take the view that the Respondent assumed as a fact that \$15,000 of marketing consulting expenses were not incurred in 2018.

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