

FCA
107

Court File No.: A-100-23

FEDERAL COURT OF APPEAL

BETWEEN:

MARLENE ENNS

Appellant

and

HIS MAJESTY THE KING

Respondent



NOTICE OF APPEAL

(Pursuant to subsection 27(1.1) of the *Federal Courts Act*)

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Federal Court of Appeal at a time and place to be fixed by the Judicial Administrator. Unless the court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at the Federal Court of Appeal in Edmonton, Alberta.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the Federal Courts Rules and serve it on the appellant's solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS of being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the judgment appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the Federal Courts Rules instead of serving and filing a notice of appearance.

Copies of the Federal Courts Rules, information concerning the local offices of the court and other necessary information may be obtained on request to the Administrator of this court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Issued by: Merran Breckenridge
(Registry Officer)

FEDERAL COURT OF APPEAL
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SOR/2004-283, ss. 35 and 38

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APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the judgment of Justice B. Russell of the Tax Court of Canada dated March 8, 2023, (the “**Judgment**”) dismissing the Appellant’s appeal from the Minister of National Revenue’s October 25, 2018, confirmation (the “**Confirmation**”) of the Notice of Assessment issued April 12, 2017, under paragraph 160(1)(a) of the *Income Tax Act* (the “**Notice of Assessment**”). The Tax Court judgment addressed Tax Court file number 2019-422(IT)G.

THE APPELLANT ASKS that:

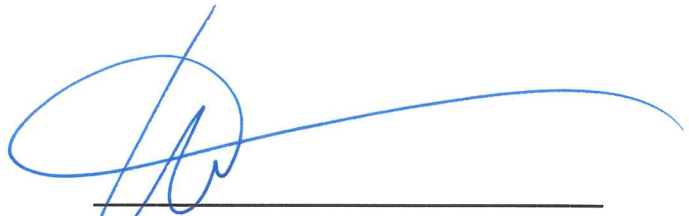
1. The appeal be allowed and the Judgment of the Tax Court of Canada be set aside with costs in this honourable Court and the Tax Court of Canada;
2. The Notice of Assessment issued by the Minister of National Revenue be vacated on the grounds that section 160 does not apply; and
3. This Court makes such further and other order as it may consider just in the circumstances.

THE GROUNDS OF APPEAL are as follows:

1. The Tax Court judge erred in law in his application of subsection 160 of the *Income Tax Act* to the transfer of certain property to the Appellant, being a refund of premiums from a registered retirement savings plan trust of the Appellant’s deceased spouse; and,

2. The Tax Court judge erred in mixed fact and law in finding that, "the RRSP funds were transferred upon Mr. Enns' death, rather than at any earlier or later time." This finding was contrary to the evidence and facts agreed between the parties, which errors were palpable and overriding.

April 6, 2023



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