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| F<br>I<br>L<br>E<br>D | FEDERAL COURT<br>OF APPEAL<br>COUR D'APPEL<br>FÉDÉRALE<br><br>December 21, 2023<br>21 décembre 2023<br><br>Robert Mvondo | D<br>É<br>P<br>O<br>S<br>É |
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**FEDERAL COURT OF APPEAL**

File No.

**BETWEEN:**

**CHRIS WALBY,**

Appellant,

- and -

**HIS MAJESTY THE KING,**

Respondent.

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**NOTICE OF APPEAL**

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**FEDERAL COURT OF APPEAL**

BETWEEN:

**CHRIS WALBY,**

Appellant,

- and -

**HIS MAJESTY THE KING,**

Respondent.

**NOTICE OF APPEAL**

TO THE RESPONDENT:

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

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be requested by the Appellant. The Appellant requests that this appeal be heard at Winnipeg, Manitoba.

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, after being served with this Notice of Appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order 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 (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.

Date: \_\_\_\_\_

Issued by: \_\_\_\_\_  
(Registry Office)

Address of Local Office:  
Federal Court of Appeal  
400-363 Broadway  
Winnipeg, MB R3C 3N9

TO: Federal Court of Appeal

AND TO: Department of Justice Canada  
Prairie Regional Office  
National Litigation Sector  
601 – 400 St. Mary Avenue  
Winnipeg, MB R3C 4K5

Per: David Silver/Allanah Smith/Erin Wolfe

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## APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the Judgment of Justice MacPhee of the Tax Court of Canada dated December 7<sup>th</sup>, 2023 and amended on December 13, 2023 in Court File No. 2021-1544(IT)G (the “Judgment”) dismissing the Appellant’s appeal.

THE APPELLANT ASKS that the Appellant’s appeal from the Judgment be allowed with costs and the matter remitted back to the Minister of National Revenue for reassessment on the basis that the cash donations of the Appellant were valid donations pursuant to subsection 118.1(1) of the Income Tax Act.

THE GROUNDS OF THE APPEAL are as follows:

1. The trial judge erred in:
  - (a) failing to allow a tax credit under *the Income Tax Act* (the “Act”) notwithstanding that a donation was made to a registered charity for a cash amount that matched the amount on a valid charitable receipt;
  - (b) failing to apply or consider the text, context and purpose of the provisions of the Act relating to charitable tax credits;
  - (c) failing to consider the donative intent with respect to a donation made to a registered charity where the full amount claimed on the charitable receipt was paid to the registered charity;
  - (d) finding that judge-made law supercedes and/or replaces the provisions of the Act relating to charitable tax credits;
  - (e) finding that the sham doctrine can vitiate real transactions;
  - (f) failing to apply or consider binding authority of this court in *Coast Capital Savings Credit Union v. The Queen*, 2016 FCA 181;
  - (g) finding a that a wholly illusory “benefit” vitiated a cash donation to a registered charity in which the cash amount of the donation equalled the amount of the donation on the charitable receipt;
  - (h) applying the “split gifting rules” in subsections 248(30-32) of the Act to a donation made to a registered charity where the cash amount of the donation equalled the amount of the donation on the charitable receipt;

- (i) finding that the value referred to in subsections 248(30-32) of the Act does not mean fair market value or anything approximating real economic value but rather an arbitrary amount sufficient to vitiate a cash amount donated to a registered charity;
- (j) finding that worthless pieces of paper have “value” sufficient to offset a properly receipted cash donation to a registered charity, according to subsections 248(30-32) of the Act;
- (k) determining a value pursuant to subsections 248(30-32) of the Act with no evidence of value before the court; and
- (l) finding that a tax credit in relation to a gift, or an illusory tax credit in relation to a non-gift, is part of the “value” in subsections 248(30-32) of the Act.

THE APPELLANT PROPOSES that this Appeal be heard at Winnipeg, in the Province of Manitoba.

December 20 , 2023

Per:



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