



Paying tax applies to everyone.

## The “Natural Person” Argument

### L’argument de la « personne physique »

Si des règles différentes s’appliquent aux personnes physiques et aux personnes morales, personne n’échappe au fisc.

by / par Don Goodison

A FEW YEARS AGO, a well-educated professional acquaintance told me about a speaker at his Rotary Club meeting who informed the group that none of them had to pay income tax. Apparently, income tax was deemed illegal in the Magna Carta and the British North America Act when applied to “natural persons.” This, he trumpeted, had been upheld by the courts, but had been hushed up so that the masses would continue to pay taxes.

Intrigued, I set about finding court cases, and imagine my glee when I came across a recent Tax Court of Canada case, *Hovey Ventures Inc. v. Her Majesty The Queen* [2007TCC139], in which the “natural person” argument was used by a taxpayer.

The case is fairly straightforward. The appellant was assessed by the Minister of National Revenue for failure to comply with a Requirement to Pay issued under Section 224 of the *Income Tax Act*. Hovey Ventures Inc. was assessed for amounts owed by a tax debtor who performed services for it. Hovey Ventures Inc. appealed to the Tax Court of Canada on the grounds that it was not liable for any amounts owing under the Requirement to Pay because the tax debtor was acting in his capacity as a “natural person” at all times relevant to the appeal.

According to the court, taxpayers facing tax evasion charges have used the “natural person” theory in their defence without success. The BC Provincial Court recently rejected this argument in *Regina v. Sydel*,

[2006 5 C.T.C. 88]. Judge Myers summarized the “natural person” argument as follows:

“... [that] there is not proof beyond a reasonable doubt, that Parliament intended to tax people who declare themselves to be “natural persons”; any money earned by an individual in their capacity of a “natural person”, as opposed to their capacity as a taxpayer or legal representative of the taxpayer is not subject to the Income Tax Act requirement to pay taxes, nor are they required by the Income Tax Act, to file T1 Individual Income Tax returns.”

The respondent argued that the “natural person” premise was completely without merit and requested that the appeal be struck out under Rule 58(1)(b) of the *Tax Court of Canada Rules (General Procedure)*, or under Rule 53(b) on the grounds that the Notice of Appeal is “scandalous, frivolous or vexatious,” or “an abuse of process.” Counsel pointed out that most of the appeal was based on the “natural person” argument, and what few facts it did contain supported the Minister’s assessment.

Counsel for the appellant opposed the motion. He argued that the jury was still out on the “natural person” argument, but provided no case law in support of that position.

Partway through the proceedings, the court asked counsel for the appellant if he wished to file an application to seek leave to amend its Notice of Appeal. After due consideration, the court decided not to grant the application to amend. In denying the application, the court stated:

“As for the “issues and arguments raised” in the Notice of Appeal, again, they are all premised solely on the “natural person” argument and are presented in a “manner and tone” more in keeping with the advancement of an anti-tax campaign than an assertion of the incorrectness of the assessment.”

In finding for the Respondent, the court held that the Notice of Appeal disclosed no reasonable cause of action. The Notice of Appeal was struck out pursuant to paragraph 58(1)(b) of the *Tax Court of Canada Rules (General Procedure)*. Clearly, the court did not buy the “natural person” argument.

I strongly believe in taxpayers’ rights to have their case heard by the court when there is a legitimate reason for bringing it forward. In this case, there was no legitimate reason. The “natural person” argument is a complete waste of the court’s time and is more suited to being pontificated at the local comedy club than in a court of law. ■

IL Y A QUELQUES ANNÉES, un conférencier a affirmé devant les membres d’un club Rotary qu’aucun d’eux n’avait à payer d’impôt sur le revenu. Selon lui, l’impôt sur le revenu était illégal en vertu de la *Magna Carta* et l’Acte de l’Amérique du Nord britannique quand il s’appliquait aux « personnes physiques ». Il prétendait que ceci avait été confirmé par les tribunaux, mais avait été passé sous silence afin que les masses continuent à payer des impôts.

Intrigué, j’ai commencé des recherches. Imaginez ma joie lorsque j’ai trouvé une récente