

TAX COURT OF CANADA  
INCOME TAX ACT

2006-122(IT)I

BETWEEN: **YVES A. PROULX**  
Appellant

-and-

**HER MAJESTY THE QUEEN**  
Respondent

[OFFICIAL ENGLISH TRANSLATION]

Held before the Honourable Justice **PAUL BÉDARD**, Tax Court of Canada, on the premises of the Courts Administration Service at Montréal, Quebec, on **June 27, 2006**

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JUDGMENT

APPEARANCES:

**YVES A. PROULX**  
Representing himself

**BENOÎT MANDEVILLE**  
Counsel for the Respondent

Clerk/Technician: Claude Lefebvre

**RIOPEL, GAGNON, LAROSE & ASSOCIÉS**  
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Suite 328  
Montréal, Quebec H2Y 1M6

IT-4843

**JEAN LAROSE, O.S.**

1 JUDGMENT

2 **JUSTICE BÉDARD:** Upon filing his  
3 income tax return for the 2004 taxation year, the  
4 Appellant claimed a deduction of \$2,506 on account of  
5 legal fees related to a court motion by which he sought  
6 to reduce the amount of his support payments to his ex-  
7 wife. By notice of assessment dated May 27, 2005, the  
8 Minister disallowed that claim in its entirety.

9 The Appellant has appealed from the  
10 Minister's decision. Thus, the only issue to be decided  
11 is whether the \$2,506 in legal fees incurred by the  
12 Appellant in contesting the amount of his support  
13 payments to his ex-wife, or ex-spouse, are deductible  
14 from his taxable income for the 2004 taxation year.

15 Legal fees incurred in negotiating or  
16 suing for a reduction in support are not deductible  
17 because the success of such an endeavour does not produce  
18 income from a business or property. Section 8 contains no  
19 provision permitting the deduction of such expenses from  
20 employment income (assuming that employment income  
21 exists) and paragraphs 60(o) and 60(o.1) do not permit  
22 the deduction of such legal fees either. In fact, it is  
23 my opinion that the Act contains no provision permitting  
24 such a deduction.

25 As for the constitutional argument,

1 I cannot accept it because you did not notify the  
2 Attorneys General of the provinces and of Canada within  
3 the requisite time limits. In any event, even if s.  
4 18(1)(a) could result in differential treatment, I am of  
5 the opinion that such a distinction would not be  
6 discriminatory.

7                   Basically, if you feel that society  
8 should change, I believe that your pressure would more  
9 properly be brought to bear on Parliament. As for me, my  
10 hands are tied, and I do not see how I could help you. I  
11 can find no basis on which you could be permitted to  
12 deduct such expenses. There is no case law in support of  
13 your position, and I can find nothing in the Act that  
14 would permit the deduction of such expenses. For these  
15 reasons, the appeal is dismissed.

16                   I understand that you had a very  
17 difficult and painful experience. However, I am not  
18 Parliament. I would be overstepping my role if I issued a  
19 judgment based solely on the sympathy that you elicit,  
20 and it would essentially be pointless, because the  
21 Minister would appeal from my decision the following day  
22 and we would all have wasted our time. I cannot rule  
23 based on equity or on the sympathy that people's  
24 circumstances elicit. I understand that your experience  
25 has been painful.

1

Good day, then.

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Translation certified true

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on this 20th day of July 2007.

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Brian McCordick, Translator