Federal Court Cour fédérale

Date: 20250619

Docket: T-1067-24

Citation: 2025 FC 1111

Montréal, Quebec, June 19, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

TERRY LUCAS

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Terry Lucas, contributed to his Registered Retirement Savings Plan [RRSP] in excess of his available contribution room for the 2021 taxation year. The Minister of National Revenue [Minister] therefore assessed tax on the excess contributions pursuant to section 204.1 of Part X.1 of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) [ITA]. This provision states that a 1% per month tax is payable on excess RRSP contributions.

[2] Mr. Lucas now seeks judicial review of the Minister's decision dated April 16, 2024, which denied his second-level request to waive the Part X.1 tax assessment [Decision]. He submits that the Decision is unreasonable for various reasons: (i) it is unreasonable to expect no errors after 40 years of tax submissions; (ii) his over-contribution is an honest error and no gains were realized; (iii) the Minister abused his power in making the Decision; (iv) the Decision is not consistent with the intent of the ITA; and (v) the penalties provided by the ITA are irrational and abusive.

[3] For the reasons that follow, Mr. Lucas' application for judicial review will be dismissed. Despite Mr. Lucas' able submissions, I find that it was reasonable for the Minister to conclude that Mr. Lucas' misapprehension of his RRSP contribution limit is not a "reasonable error" as required by subsection 204.1(4) of the ITA. It was open to the Minister to determine that Mr. Lucas had not submitted evidence of reasonable steps taken to comply with the ITA and to prevent over-contributions to his RRSP. The reasoning in the Decision is logical and consistent in relation to the relevant legal and factual constraints. While I recognize that Mr. Lucas made an honest mistake when determining his contribution limit, there are no grounds for the Court to intervene.

II. Background

A. *The factual context*

[4] On April 15, 2021, Mr. Lucas contributed to his RRSP in the amount of $22,118, which exceeded the limit of $9,504 for tax year 2021, as shown in his 2021 Notice of Assessment.

[5] About a year later, on April 17, 2022, Mr. Lucas realized his error and requested a tax-free withdrawal from his RRSP for the excess contribution made for tax year 2021, which included the appropriate Form T3012A.

[6] On August 11, 2022, the Canada Revenue Agency [CRA] informed Mr. Lucas that the Form T3012A was approved for $12,614. It also advised Mr. Lucas that he had made excess RRSP contributions and that he needed to file an Individual Tax Return for RRSP, SPP and PRPP Excess Contributions [T1-OVP Return] for tax year 2021.

[7] On August 25, 2022, Mr. Lucas asked the CRA to file the T1-OVP Return on his behalf. Upon processing this request, the CRA sent Mr. Lucas a T1-OVP notice of assessment for tax year 2021 requiring that he pay $955.26 in net federal taxes (representing the 1% monthly tax pursuant to Part X.1 of the ITA), $85.97 in penalties, and $27.37 in arrears interest due to his over-contributions.

[8] On September 13, 2022, Mr. Lucas requested that the Minister waive the Part X.1 tax and penalties resulting from his over-contributions. This request was denied on May 24, 2023.

B. *The Second Request and the Decision*

[9] On June 2, 2023, Mr. Lucas submitted a new request that the Minister waive the Part X.1 tax pursuant to subsection 204.1(4) of the ITA [Second Request]. In his Second Request, he explained that, to determine his available contribution room, he mistakenly took the amount from his 2019 Notice of Assessment instead of the 2020 one. He also pointed out that he received no benefit from his mistaken over-contribution.

[10] A review of Mr. Lucas' Second Request was conducted by a CRA Pension Officer [Officer]. In her report, the Officer recommended denying the Second Request [Report]. The Officer was of the view that Mr. Lucas' misinterpretation of his RRSP deduction limit statement did not constitute a "reasonable error" within the meaning of paragraph 204.1(4)(a), as he was provided with the information required to contribute the correct amount to his RRSP. More specifically, Mr. Lucas could refer to his 2020 Notice of Assessment or contact the CRA to confirm how the RRSP deduction limit is calculated. The Officer stressed that individuals are responsible for understanding their RRSP plans and limits, review their Notice of Assessment to verify the information, and ask information from the CRA when needed. She also noted that Form T3012A is not necessary to withdraw the excess amount and any delays that result from having the withdrawal approved are not considered to be a reasonable error.

[11] A CRA Resource Officer subsequently endorsed the Report and issued the Decision on behalf of the Minister, denying the Second Request.

C. *Relevant provisions*

[12] If a taxpayer contributes to their RRSP in excess of their contribution limit, the excess contribution is taxed under Part X.1 of the ITA at a rate of 1% per month until it is withdrawn (subsections 204.1(2.1), 204.2(1.1) and 204.3 of the ITA). In such situations, the taxpayer is required to file an annual T1-OVP Return in respect of the excess contributions.

[13] Under subsection 204.1(4), the Minister may waive the Part X.1 tax in certain circumstances. It provides as follows:

Waiver of tax	**Renonciation**
(4) Where an individual would, but for this subsection, be required to pay a tax under subsection 204.1(1) or 204.1(2.1) in respect of a month and the individual establishes to the satisfaction of the Minister that	**(4)** Le ministre peut renoncer à l'impôt dont un particulier serait, compte non tenu du présent paragraphe, redevable pour un mois selon les paragraphes (1) ou (2.1), si celui-ci établit à la satisfaction du ministre que
(a) the excess amount or cumulative excess amount on which the tax is based arose as a consequence of reasonable error, and	l'excédent ou l'excédent cumulatif qui est frappé de l'impôt fait suite à une erreur raisonnable et que des mesures adéquates sont prises pour éliminer l'excédent.
(b) reasonable steps are being taken to eliminate the excess,	
the Minister may waive the tax.	

D. *Standard of review*

[14] It is well established that the standard of review applicable to the merits of ministerial decisions not to waive Part X.1 tax liability with respect to over-contribution under subsection 204.1(4) is reasonableness (*Connolly v Canada (National Revenue)*, 2019 FCA 161 at para 56 [*Connolly*]; *Roadknight-Amer v Canada (Attorney General)*, 2024 FC 1183 at para 19 [*Roadknight-Amer*]; *McFadden v Canada*, 2024 FC 1105 at para 21; *Zhang v Canada (Attorney General)*, 2023 FC 356 at para 22; *Froehling v Canada (Attorney General)*, 2021 FC 1439 at para 18 [*Froehling*]). This is confirmed by the Supreme Court of Canada's landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], where the

Court established a presumption that the standard of reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [*Mason*]).

[15] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on "an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85; *Mason* at para 64). The reviewing court must therefore ask whether the "decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99). Both the outcome of the decision and its reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 95, 136).

[16] Such a review must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a "reasons first" approach and begin its inquiry by examining the reasons provided with "respectful attention," seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene "only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Vavilov* at para 13), without "reweighing and reassessing the evidence" before it (*Vavilov* at para 125).

[17] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are "sufficiently serious shortcomings" (*Vavilov* at para 100).

III. Analysis

A. *Preliminary issues*

[18] Before dealing with the merits of this case, I must first rule on the two preliminary issues raised by the respondent, the Attorney General of Canada [AGC].

(1) Argumentative materials in affidavit evidence

[19] The AGC first submits that paragraphs 23 to 32 of Mr. Lucas' affidavit are argumentative in nature and should be disregarded by the Court. At the hearing, Mr. Lucas indicated that he was not challenging this AGC's request. In any case, I agree with the AGC.

[20] Subsection 81(1) of the *Federal Courts Rules*, SOR/98-106 provides that an affidavit shall be confined to facts within the deponent's personal knowledge and must be delivered "without gloss or explanation" (*Coldwater First Nation v Canada (Attorney General)*, 2019 FCA 292 at para 19, citing *Canada (Attorney General) v Quadrini*, 2010 FCA 47 at para 18 [*Quadrini*]). As such, the Court may strike or disregard all or parts of an affidavit where it contains opinions, arguments, or legal conclusions (*Choudhry v Canada (Attorney General)*, 2023 FC 1085 at para 39, citing *Quadrini* at para 18 and *Cadostin v Canada (Attorney General)*, 2020 FC 183 at para 36; see also *Cavan Speciality Advertising Ltd v Promotions Universelles inc (Universal Promotions)*, 2025 FC 205 at paras 25–28).

[21] Paragraphs 23 to 32 of Mr. Lucas' affidavit are identical to "Part III – Submissions" of his memorandum. In other words, Mr. Lucas reproduced his entire submissions in his affidavit.

This is neither helpful nor permitted. Paragraphs 23 to 32 of Mr. Lucas' affidavit will therefore be disregarded.

(2) New evidence on judicial review

[22] The AGC also raises that some of Mr. Lucas' evidence was not before the Minister and should be disregarded as well: (i) the Notice of Collection referred to at paragraph 14 of Mr. Lucas' affidavit and at Exhibit P-13; (ii) the Notice of Application for this judicial review at paragraph 20 of the affidavit and at Exhibit P-19; (iii) the Notice of Confirmation at paragraph 21 of the affidavit and at Exhibit P-20; and (iv) a spreadsheet calculation of the rational penalty process alleged by Mr. Lucas at Exhibit P-21. Once again, I agree.

[23] On judicial review, the Court cannot normally review evidence that was not before the administrative decision maker (*Gittens v Canada (Attorney General)*, 2019 FCA 256 at para 14; *Tsleil-Waututh Nation v Canada (Attorney General)*, 2017 FCA 128 at paras 97–98 [*Tsleil-Waututh*]; *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 19 [*Access Copyright*]; *Lapointe v Canada (Attorney General)*, 2024 FC 172 at para 12 [*Lapointe*]; *Fortier v Canada (Attorney General)*, 2022 FC 374 at para 17). Indeed, "[t]he essential purpose of judicial review is the review of decisions, not the determination, by trial de novo, of questions that were not adequately canvassed in evidence at the tribunal or trial court" (*Access Copyright* at para 19).

[24] However, there are some exceptions to this principle. Those limited exceptions extend to materials that: (1) provide general background assisting the reviewing court in understanding the issues; (2) demonstrate procedural defects or a breach of procedural fairness in the administrative

process; or (3) highlight the complete absence of evidence before the decision maker (*Tsleil-Waututh* at para 98; *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 23–25; *Access Copyright* at paras 19–20; *Lapointe* at para 12; *Nshogoza v Canada (Citizenship and Immigration)*, 2015 FC 1211 at paras 16–18).

[25] In this case, the evidence identified by the AGC was indeed not before the Minister, and none of the exceptions apply. I will consequently disregard this evidence. I note, however, that the Notice of Application is obviously before the Court not by virtue of being filed as an exhibit to Mr. Lucas' affidavit, but rather as an integral part of the application record.

[26] In any event, none of the impermissible evidence would have made any impact on my decision on this judicial review.

B. *The Decision is reasonable*

[27] Mr. Lucas raises five reasons in support of his claim that the Decision is unreasonable: (i) it is unreasonable to expect no errors after 40 years of tax submissions; (ii) his over-contribution is an honest error and no gains were realized; (iii) the Minister abused his power in making the Decision; (iv) the Decision is not consistent with the intent of the ITA; and (v) the penalties provided by the ITA are irrational and abusive.

[28] With respect, I am not persuaded by any of Mr. Lucas' submissions.

[29] Subsection 204.1(4) of the ITA provides for discretionary relief from liability from any Part X.1 tax payable on over-contributions to an RRSP. However, the Minister may only exercise this discretionary power to waive the Part X.1 tax if the taxpayer has met the following

test: (1) the cumulative excess amount on which the tax is based arose due to a reasonable error; and (2) the taxpayer must be taking reasonable steps to eliminate the excess.

[30] In *Connolly*, the Federal Court of Appeal considered at length the test to be applied under subsection 204.1(4). It noted that the purpose of the provision is "to provide relief against the harshness that might result from applying the heavy tax on over-contributions to a taxpayer who can demonstrate that her or his over-contribution resulted from a reasonable mistake and who is taking or has taken reasonable steps to correct the mistake" (*Connolly* at para 66).

[31] Under the first branch of the subsection 204.1(4) test, the reasonableness of the error at hand will turn on an objective assessment of all the relevant evidence provided by the taxpayer. This is because the Canadian tax system is based on self-assessment, meaning that taxpayers must take reasonable steps to comply with the ITA, including by seeking advice where necessary (*Connolly* at para 69; *Froehling* at para 26). As a result, the taxpayer's innocence or lack of intent — which are subjective factors — are not determinative of the reasonableness of the error, though they may be considered in the Minister's analysis (*Froehling* at para 26, citing *Lepiarczyk v Canada (Revenue Agency)*, 2008 FC 1022 at para 19). A taxpayer who is misinformed about the contribution limit after making reasonable inquiries might well constitute a reasonable error, but one who fails to make any inquiries will not (*Connolly* at para 69).

[32] In short, as noted in the Decision, it is up to individual taxpayers to ensure that they conduct their financial affairs in accordance with the ITA. The taxpayer's responsibility is to understand or be informed of the law and to take reasonable steps to comply with the ITA (*Connolly* at para 69). Given the complexity of the tax system, taxpayers are also expected to seek advice when necessary (*Connolly* at para 69).

[33] As submitted by the AGC, the Decision explains, in a transparent and intelligible manner, that Mr. Lucas failed to establish that the excess contribution amount on which the tax assessment is based arose due to a reasonable error. Mr. Lucas simply states that he misunderstood his RRSP contribution room because he looked at his 2019 Notice of Assessment instead of the 2020 one. As stated in the Decision, misinterpreting an RRSP contribution limit statement is not in and of itself a reasonable error, since it is the taxpayer's duty and responsibility to ensure the accuracy of statements made in their income tax returns. This interpretation of subsection 204.1(4) by the Minister is reasonable.

[34] I also observe that the Minister complied with the principles set out in *Connolly*: he did not require that Mr. Lucas demonstrate that his error resulted from extraordinary circumstances, or from bad advice received from a third party, or that Mr. Lucas had to withdraw the over-contributions as soon as possible or within a two-month period (*Connolly* at para 59).

[35] Moreover, Mr. Lucas did not submit evidence of reasonable steps taken to comply with the ITA and to ensure that he did not over-contribute to his RRSP. This is not a situation where Mr. Lucas was misinformed about his contribution limit after making reasonable inquiries (*Connolly* at para 69). For example, if Mr. Lucas' reliance on the 2019 Notice of Assessment originated from advice by a CRA official, his error may have been reasonable within the meaning of subsection 204.1(4). Unfortunately, this is not the case.

[36] This situation is similar to those in *Connolly*, *Roadknight-Amer*, and *Froehling*, where the applicants did not provide evidence of inquiries made to verify their RRSP contribution room (*Connolly* at paras 76–77; *Roadknight-Amer* at paras 23–27; *Froehling* at para 27).

[37] I do not dispute that Mr. Lucas' over-contribution to his RRSP may have been an honest mistake. That said, subsection 204.1(4) of the ITA and its jurisprudence require that taxpayers prove that they undertook reasonable steps to prevent any errors. The Minister found that, on the facts before him, Mr. Lucas had not offered such evidence. Given the evidence before the decision maker and in light of the applicable legal principles, I find that it was reasonable for the Minister to reach the conclusion that Mr. Lucas had not established that the excess contribution on which the Part X.1 tax was based arose as a consequence of reasonable error. The Decision provided ample reasons as to why the error made by Mr. Lucas was not "reasonable," which reasons demonstrate a rational chain of analysis and a full consideration of the underlying facts.

[38] When conducting reasonableness review, this Court's role is limited: it can only vet the acceptability and defensibility of the Decision based on the legal standards set out in the law and the facts found in the evidentiary record. I cannot evade these constraints. It is not within my power to grant an application for judicial review on the sole ground that it would not be right or just (in a general sense) for the Minister to collect more taxes due to Mr. Lucas' honest mistake (*Trigonakis v Sky Regional Airlines Inc*, 2022 FCA 170 at para 9).

[39] It is not necessary to address Mr. Lucas' other arguments at length — i.e., that the Minister abused his power in making the Decision, that the Decision is not consistent with the intent of the ITA, or that the penalties provided by the ITA are irrational and abusive. As pointed out by the AGC, these arguments were not raised before the administrative decision maker. In addition, these arguments are without any merit, as the Minister was simply applying the law as enacted by Parliament and no evidence was provided by Mr. Lucas to support his claims of abuse of power and inconsistency with the ITA's intent.

IV. Conclusion

[40] For the reasons set forth above, Mr. Lucas' application for judicial review is dismissed. The Minister reasonably concluded that the discretionary relief at subsection 204.1(4) of the ITA was not warranted, as Mr. Lucas' misapprehension of his RRSP contribution limit does not amount to a reasonable error on the facts of this case. The Decision bears the hallmarks of justification, transparency, and intelligibility required under the standard of reasonableness.

[41] In his written submissions, counsel for the AGC requested an award of costs but indicated at the hearing that he was no longer seeking any costs. I agree that no costs are warranted in this case. Given that Mr. Lucas is a self-represented litigant, made very professional representations, and conducted himself with civility, I exercise my discretion not to award any costs (*Auburn v Canada (Attorney General)*, 2025 FC 785 at para 61; *Lalonde v Canada (Revenue Agency)*, 2023 FC 41 para 97; *Hu v Canada (Attorney General)*, 2023 FC 1590 at para 36, aff'd 2024 FCA 215; *Showers v Canada (Attorney General)*, 2022 FC 1183 at para 32).

JUDGMENT in T-1067-24

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.

"Denis Gascon"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1067-24
STYLE OF CAUSE:	TERRY LUCAS v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	MONTRÉAL (QUEBEC)
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JUDGMENT AND REASONS:	GASCON J.
DATED:	JUNE 19, 2025

APPEARANCES:

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Guillaume Turcotte	FOR THE RESPONDENT

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