

BETWEEN:

MARO OJAIDE,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

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Appeal heard on August 21, 2025, at Regina, Saskatchewan

Before: Associate Judge Andrew Miller

Appearances:

For the Appellant: The Appellant himself  
Counsel for the Respondent: Sonia Lee

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**JUDGMENT**

In accordance with the attached Reasons for Judgment, the appeal of the reassessment made pursuant to the *Income Tax Act* and in respect of the Appellant's 2022 taxation year is dismissed, without costs.

Signed this 27<sup>th</sup> day of November 2025.

“Andrew Miller”

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Miller A.J.

Citation:2025 TCC 180  
Date:20251127  
Docket: 2024-1669(IT)I

BETWEEN:

MARO OJAIDE,

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and

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Respondent.

## **REASONS FOR JUDGMENT**

### **INTRODUCTION**

[1] This appeal is about whether the Appellant can claim a tuition tax credit for his 2022 taxation year based on an amount of tuition paid in excess of the tuition amount owing for that year. The Appellant says that the words “tuition paid in respect of the year to the university” in paragraph 118.5(1)(b) of the *Income Tax Act* (the “Act”) allow him to calculate his credit based on an amount that includes tuition owing for a separate taxation year. The Respondent says that paragraph 118.5(1)(b) of the Act limits the tuition amount to tuition owing for the taxation year.

### **FACTS**

[2] The facts are not in dispute. Throughout the 2022 taxation year, the Appellant was enrolled in a PhD program on a full-time basis at the University of Leicester, located in Leicester, England.<sup>1</sup> The PhD program was a four-year program.<sup>2</sup> The total tuition fees for the four-year program were 23,855 pounds sterling (“GBP£”) and payments were due and made on a monthly basis.<sup>3</sup> Accordingly, the annual tuition fees for 2022 totaled GPB£5,963.75, an amount equal to CAD\$9,587.30.<sup>4</sup>

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<sup>1</sup> Reply to the Notice of Appeal, para. 9(a).

<sup>2</sup> Exhibit A-2, email correspondence between Maro Ojaide and Finance Administrator of the University of Leicester.

<sup>3</sup> Exhibit A-2, email correspondence between Maro Ojaide and Finance Administrator of the University of Leicester.

<sup>4</sup> Exhibit A-5, Form TL11D E (14) – Tuition Fees Certificate – Educational Institutions Outside Canada for a Deemed Resident of Canada.

[3] In 2022, the Appellant paid GBP£6,622.36 in tuition to the University of Leicester, the equivalent of CAD\$10,700.<sup>5</sup> Essentially, the Appellant paid more in tuition than was owing for the 2022 taxation year, but the overpayment was credited to tuition owing for 2023.<sup>6</sup>

[4] In his tax return for the 2022 taxation year, the Appellant claimed a tuition tax credit based on foreign tuition fees totalling CAD\$10,700.<sup>7</sup> The Minister of National Revenue reassessed the Appellant by reducing the foreign tuition fees to CAD\$9,587.30 and recalculating the tuition tax credit accordingly, on the basis that this was the amount of tuition owing in respect of the 2022 taxation year.<sup>8</sup>

### ISSUE

[5] The issue in this appeal is whether the Appellant can claim a tuition tax credit under paragraph 118.5(1)(b) of the Act for his 2022 taxation year based on the amount of tuition he paid in 2022 or whether the credit must be calculated based on the tuition owed for 2022.

### ANALYSIS

[6] There being no dispute on the facts, this appeal turns on the interpretation of paragraph 118.5(1)(b) of the Act. This requires that I interpret the provision by applying a textual, contextual and purposive analysis. As stated by the Supreme Court of Canada:

The interpretation of a statutory provision must be made according to a textual, contextual and purposive analysis to find a meaning that is harmonious with the Act as a whole. When the words of a provision are precise and unequivocal, the ordinary meaning of the words play a dominant role in the interpretive process. On the other hand, where the words can support more than one reasonable meaning, the ordinary meaning of the words plays a lesser role. The relative effects of ordinary meaning, context and purpose on the interpretive process may vary, but in all cases the court must seek to read the provisions of an Act as a harmonious whole.<sup>9</sup>

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<sup>5</sup> Exhibit A-1, Receipt of Payment from University of Leicester; Exhibit A-2, email correspondence between Maro Ojaide and Finance Administrator of the University of Leicester. Exhibit A-3, Transaction History from Wise Payment Canada.

<sup>6</sup> Exhibit A-2, email correspondence between Maro Ojaide and Finance Administrator of the University of Leicester.

<sup>7</sup> Notice of Appeal; Reply to the Notice of Appeal at para 3.

<sup>8</sup> Notice of Appeal; Reply to the Notice of Appeal at para 8.

<sup>9</sup> *Canada Trustco Mortgage Co. v. Canada*, 2005 SCC 54 at para. 10.

**(a) The textual analysis**

[7] I find the words of paragraph 118.5(1)(b) of the Act to be precise and unequivocal. Paragraph 118.5(1)(b) provides the following:

Tuition credit

**118.5 (1)** Subject to subsection (1.2), for the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted,

...

**(b)** where the individual was during the year a student in full-time attendance at a university outside Canada in a course leading to a degree, an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees for the individual's tuition paid in respect of the year to the university, except any such fees

...

Crédit d'impôt pour frais de scolarité

**118.5 (1)** Sous réserve du paragraphe (1.2), les montants suivants sont déductibles dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition :

...

**(b)** si, au cours de l'année, le particulier fréquente comme étudiant à plein temps une université située à l'étranger, où il suit des cours conduisant à un diplôme, le produit de la multiplication du taux de base pour l'année par le total des frais de scolarité payés à l'université pour l'année, à l'exception des frais qui ont été :

...

[8] Paragraph 118.5(1)(b) can be broken up into two parts. The first part sets the conditions that taxpayers must meet to be eligible to claim a tuition tax credit. Accordingly, an individual is entitled to a tax credit where (1) the individual was during the year a student (2) in full-time attendance (3) at a university outside Canada (4) in a course leading to a degree. The parties agree that the Appellant met these four criteria.

[9] The second part to paragraph 118.5(1)(b) establishes how the tuition credit is calculated. This is where the parties disagree. Specifically, the parties advance competing interpretations of the words “tuition paid in respect of the year to the university”. The Appellant says that the provision allows him to claim a tuition credit for his 2022 taxation year based on the full amount of tuition he paid to the University of Leicester in 2022. The Respondent says that the credit must be calculated by using only the amount paid for tuition owing for the 2022 taxation year.

“Taxation year” v. “the year”

[10] The opening words of subsection 118.5(1) of the *Act* refer to an individual’s “taxation year”. “Taxation year” is defined in the Act at subsection 249(1) which states:

- 249 (1)** In this Act, except as expressly otherwise provided, a “taxation year” is
- (a) in the case of a corporation or Canadian resident partnership, a fiscal period;
  - (b) in the case of a graduated rate estate, the period for which the accounts of the estate are made up for purposes of assessment under this Act; and
  - (c) in any other case, a calendar year.

**249 (1)** Dans la présente loi, sauf disposition contraire expresse, l’année d’imposition correspond :

- a) dans le cas d’une société de personnes résidant au Canada ou d’une société, à l’exercice;
- b) dans le cas d’une succession assujettie à l’imposition à taux progressifs, à la période pour laquelle les comptes de la succession sont arrêtés pour l’établissement d’une cotisation en vertu de la présente loi;
- c) dans les autres cas, à l’année civile.

[11] The Appellant is an individual, and therefore the use of “taxation year” at subsection 118.5(1) means calendar year. The use of “taxation year” disappears in paragraph 118.5(1)(b) and is instead replaced with “the year” for the remainder of the provision. Parliament’s use of the definite article “the” instead of the indefinite article “a” makes it clear and unequivocal that “the year”, used three times in the provision, means “taxation year” each time, and specifically the same taxation year referenced in the preamble.

[12] The same drafting style exists in the French version of the provision. The preamble begins with “année d’imposition” and is replaced thereafter with “l’année”. Moreover, this drafting style is not uncommon in the Act, the earliest examples being found at sections 2 and 3 of the Act, where the provisions begin with “taxation year” in the preamble and continue to refer to the taxation year as “the year”. I find that there is no support for an interpretation of “the year” at paragraph 118.5(1)(b) to mean anything other than the “taxation year” identified in the preamble.

### The “appropriate percentage”

[13] The calculation of the tuition credit is determined by multiplying the correct fees paid to the university by the “appropriate percentage for the year”. The term “appropriate percentage” is defined in the Act at subsection 248(1) which refers to a percentage applicable for the taxation year found in subsection 117(2) of the Act. Because tuition tax credits are available only for individuals, “taxation year” always means calendar year.

[14] As a result, the use of “the year” that follows “appropriate percentage” can only mean taxation year. To find otherwise would result in an incoherence in the provision. Once again, there is no support for an interpretation that “the year” means anything other than the “taxation year” referenced in the preamble.

### Use of “in respect of”

[15] The expression “in respect of” is commonly used by Parliament. Its meaning was most notably interpreted by the Supreme Court of Canada in *R v. Nowegijick*, where the Court stated:

The words “in respect of” are, in my opinion, words of the widest possible scope. They import such meanings as “in relation to”, “with reference to” or “in connection with”. The phrase “in respect of” is probably the widest of any expression intended to convey some connection between two related subject matters.<sup>10</sup>

[16] While conveying a wide scope in the connection between two related subject matters, the expression does not cause the two related subject matters to be any less precise. For the purposes of paragraph 118.5(1)(b), the two related subject matters are (1) the tuition payments and (2) the year. Connecting these two with the

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<sup>10</sup> *R. v. Nowegijick*, [1983] 1 S.C.R. 29 at 39.

expression “in respect of” does not cause the term “the year” to mean anything other than the “taxation year”. It also does not render “the year” open to a broad interpretation whereby one should read into the meaning a meaning that includes payments for tuition owing in other taxation years or any year. Equally clear and unequivocal language exists in the French version of the provision, where Parliament connects “frais de scolarité payés” to “l’année” by using “pour”.

[17] If Parliament wanted to calculate the tuition credit amount that can be claimed in a taxation year to be the amount of tuition paid in respect of any year, it might have used “a” year, “any” year, or even “paid in the year”. In the French wording, Parliament could have used “dans l’année”. By using the expression “in respect of the year” and “pour l’année”, Parliament unequivocally ties the required payment of tuition giving rise to a credit to the tuition owing for the taxation year in which the credit is claimed. In fact, what is achieved by Parliament’s use of “in respect of” and “pour” is that individuals can claim credits when the payments of tuition were not made during the taxation year but were nevertheless made for tuition owing in the taxation year.<sup>11</sup>

### **(b) Contextual analysis**

[18] Paragraph 118.5(1)(b) of the Act is found in Subdivision A of Division E of Part I of the Act, a subdivision that provides for tax credits for individuals such as age credits, child tax credits, home renovation tax credits, gift credits and medical expense credits, to name a few.

[19] Subsection 118.5(1) of the Act covers tuition credits. It allows an individual who meets certain preconditions to reduce the tax payable under Part I of the Act for a particular taxation year by granting a credit for tuition paid to a post-secondary institution. Paragraph (a) of subsection 118.5(1) provides a credit for students attending an educational institution in Canada, whereas paragraph (b) provides a credit for students attending a university outside of Canada. Paragraph (c) provides a credit for fees paid by a resident of Canada who commutes to a post-secondary

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<sup>11</sup> This Court, in *Marino v. The Queen*, 2020 TCC 50 at para. 26, relied on this interpretation for the purposes of determining whether subsection 118.5(1) and section 118.61 apply to all non-residents or only to non-residents who are subject to Part I of the Act in the year for which the tuition is paid. Also, David Sherman writes the following in his explanation of the period covered for the tuition tax credit:

The calculation is of fees paid “in respect of the year”, not “in the year”, so a university can issue a T2202 for a prior year when fees are not paid until the next year: VIEWS doc 2004-0070671I7. Where fees are prepaid, the credit is for courses taken in the year: 2004-0099741E5, 2010-0361981E5.  
Analysis/Commentary – David Sherman’s Notes – Income Tax Act, 118.5(1)(a) (1999-06-09), online: Taxnet Pro <[v3.taxnetpro.com/Document/I8daec09a35ab09aee0440003ba833f85/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](http://v3.taxnetpro.com/Document/I8daec09a35ab09aee0440003ba833f85/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)>.

educational institution in the United States, and paragraph (d) provides a credit for fees relating to an occupational, trade or professional examination. All four of these provisions allow for credits where the tuition or fees for the examination are paid “in respect of the year”.

[20] Subsection 118.5(1.1) restricts the credits available under paragraphs 118.5(1)(a) and (d) by setting a minimum amount of fees that must be paid to the institution. Importantly, this subsection does not apply to paragraph 118.5(1)(b) of the Act. For this reason, I find that the context it provides is of limited assistance.<sup>12</sup>

[21] Subsection 118.5(1.2), to which the entirety of subsection 118.5(1) is subject, provides for a reduction to the tuition tax credit available to individuals under subsection 118.5(1) based on the amount claimed as a Canada training credit under section 122.91 of the Act. Of note, the language used in subsection 118.5(1.2) aligns with subsection 118.5(1) in that it quantifies the amount of the reduction based on the amount paid “in respect of the taxation year”.

[22] Section 118.61 of the Act allows for the carryforward to future taxation years of any tuition tax credit amount that cannot be used in the year it arises. In subsection (4), Parliament includes a mandated adjustment to the carryforward amount that must be made where the “appropriate percentage” changes from year to year. It shows that if Parliament wishes to distinguish between taxation years, Parliament uses specific language to do so, in this case by using “current taxation year” and “preceding taxation year”.

[23] Section 118.8 of the Act allows for the transfer of tuition credits that the individual is not able to use to the individual’s spouse or common-law partner. Where there is no spouse or common-law partner, the unused credit may be transferred to the individual’s parents or grandparents under section 118.9 of the Act.

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<sup>12</sup> I note that the language used to establish the precondition to the permitted credits refers to fees “paid to the particular institution in the year”. However, the French version of subsection (1.1) uses “payés pour l’année”, which in English would equate to “paid in respect of the year”. I find that the French wording of the subsection is more reflective of Parliament’s true intent. It is also noteworthy that the explanation in the Department of Finance Technical Notes to the Income Tax Act relating to subsection 118.5(1.1) supports that interpretation:

New subsection 118.5(1.1) is added to provide that, in computing the credit under subsection 118.5(1), an individual is eligible to deduct tuition fees and examination fees if the total of those fees, paid to an educational institution, professional association, provincial ministry or other similar institution in respect of a year, exceeds \$100.  
*Department of Finance Technical Notes to the Income Tax Act*, (October 2011), 118.5(1.1).

[24] I find that the context provided by these provisions is limited and does not add to or subtract from the clear and unequivocal language contained in paragraph 118.5(1)(b) of the Act. I find this way because subsection 118.5(1) uses the same disputed language throughout, and sections 118.61, 118.8 and 118.9 concern how the credits can be used once quantified.

### (c) Purposive analysis

[25] The Technical Notes to the Income Tax Act issued by the Department of Finance (“Technical Notes”) relating to paragraph 118.5(1)(b) do not assist in shedding light on Parliament’s intention in regard to the interpretative disagreement between the parties. However, assistance can be found in the Technical Notes for paragraph 118.5(1)(a) of the Act, specifically the following:

New section 118.5 provides a tax credit in respect of tuition fees for the 1988 and subsequent taxation years. [These amendments to paragraphs 118.5(1)(a), (b) and (c)] ensure that the credit will be available **in those cases where the tuition for a semester in one year is paid in another year. In those cases the credit will be available for the year [in respect of] which the tuition is paid rather than the year in which it is paid.**<sup>13</sup>

(Emphasis added.)

[26] As noted by Professor Vern Krishna, tying the credit available for a taxation year to the tuition for that year makes practical sense in the context of tuition payments. It addresses situations where tuition might be due at either the outset or the end of the academic year, which typically spans two taxation years:

Only tuition fees paid *in respect of a particular year* are creditable in that year. Fees paid to cover tuition for an academic session that straddles the calendar year are eligible for the tax credit only for the year to which they relate. For example, where the academic year is from September in one year to May of the next year, the tuition tax credit must be allocated so that the portion from September to December is claimable in one year and the portion from January to May is claimable in the subsequent year.<sup>14</sup>

[27] It is also interesting to examine the Parliamentary records surrounding the adoption of subsection 118.5(1) of the Act. These reveal that Parliament considered

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<sup>13</sup> *Department of Finance Technical Notes to the Income Tax Act*, (19 August 1988), 118.5(1)(a). This Technical Note is referred to in the Technical Notes relating to subsection 118.5(1)(b) ITA.

<sup>14</sup> Vern Krishna, *The Fundamentals of Canadian Income Tax*, 8th ed. (Toronto: Thomson Carswell, 2004) at 629.

different wording for the provision from that which now exists. Here is how it appeared at the time:

**118.5 (1)** For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted,

...

(b) where the individual was during the year a student in full-time attendance at a university outside Canada in a course leading to a degree, an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees for his tuition paid **in the year** to the university, except any such fees ...

**118.5 (1)** Les montants suivants sont déductibles dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition :

...

(b) si, dans l'année, le particulier fréquente comme étudiant à temps plein une université située à l'étranger, où il suit des cours conduisant à un diplôme, le montant obtenu en multipliant par le taux de base pour l'année le total des frais de scolarité payés à l'université **au cours de l'année**, à l'exception des frais qui ont été : ...<sup>15</sup>

(Emphasis added.)

[28] The difference between this language and the language that was enacted is noteworthy. It reflects precisely what the Technical Notes reveal in terms of Parliament's intention that individuals be able to claim a tuition tax credit in a given taxation year only for tuition paid for that same taxation year.

[29] More generally, the availability of a tuition tax credit is reflective of the policy decision to assist and encourage Canadians to pursue training in order to improve their qualifications for employment.<sup>16</sup> By tying the credit to the year in which the tuition was owing and during which the individual was a student in full-time attendance at a university aligns precisely with this policy.

[30] It is well settled that "an interpretation that promotes the purpose [of the provision] is preferred over one that does not, while interpretations that would tend

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<sup>15</sup> House of Commons, *Votes and Proceedings*, 33-2, No. 328 (13 June 1988) at 249–251, online: <parl.canadiana.ca/view/oop.proc\_HOC\_3302\_8/801>.

<sup>16</sup> *Department of Finance Technical Notes to the Income Tax Act*, (March 1964) 118.5 ITA (Budget Speech).

to defeat the purpose are avoided”.<sup>17</sup> The Appellant’s interpretation would allow for that purpose to be defeated. Indeed, an individual enrolled in a four-year program could pay the tuition for the entire program in year one and claim a credit amount calculated according to the entire amount paid in that taxation year, without having to maintain the requirement of continuing the training over the ensuing three years. It potentially circumvents the requirements that the individual be enrolled during the taxation year as a full-time student at a university. Requiring that the tuition giving rise to the tax credit be tied to the taxation year for which the tuition is owing ensures that the policy of assisting Canadians improve their qualifications is achieved.

**(d) Conclusion**

[31] The words of paragraph 118.5(1)(b) of the Act are precise and unequivocal, and their ordinary meaning should play a dominant role in the interpretative process. The ordinary meaning of the words contained in paragraph 118.5(1)(b) reveal that tuition tax credits for a given taxation year are calculated based on the tuition paid for that same taxation year only. In addition, the contextual and purposive analyses of the provision support that very interpretation, which is harmonious with the Act as a whole.

[32] As a result, the Appellant’s appeal cannot succeed as his tuition tax credit must be calculated based on the tuition owing for the 2022 taxation year, an amount totalling CAD\$9,587.30. The appeal is therefore dismissed, without costs.

Signed this 27<sup>th</sup> day of November 2025.

“Andrew Miller”

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Miller A.J.

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<sup>17</sup> Ruth Sullivan, *Statutory Interpretation*, 3rd ed. (Toronto: Irwin Law, 2016) at 185.

CITATION: 2025 TCC 180  
COURT FILE NO.: 2024-1669(IT)I  
STYLE OF CAUSE: MARO OJAIDE AND HIS MAJESTY  
THE KING  
PLACE OF HEARING: Regina, Saskatchewan  
DATE OF HEARING: August 21, 2025  
REASONS FOR JUDGMENT BY: Associate Judge Andrew Miller  
DATE OF JUDGMENT: November 27, 2025

APPEARANCES:

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