Cour fédérale Federal Court

Date: 20201021

Docket: T-1914-19

Citation: 2020 FC 982

Ottawa, Ontario, October 21, 2020

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

M.S.

Applicant

and

HER MAJESTY THE QUEEN

Defendant

ORDER AND REASONS

[1] The applicant seeks authorization to institute a class action on behalf of parents who were allegedly deprived of the Canada Child Benefit, the GST/HST credit and other similar benefits. In short, the applicant argues that the Canada Revenue Agency [CRA] should not terminate these benefits when a child is the subject of a placement under child protection legislation but is still staying "part-time" with his or her parents.

[2] I am dismissing the application. In substance, the intended action seeks to obtain payment of the benefits at issue. Because these benefits flow from tax legislation, the Tax Court of Canada has exclusive jurisdiction with respect to them. The Federal Court simply cannot rule on the intended action.

[3] From the outset, it must be noted that the parties agreed to the application of the Federal Courts' procedural bijuralism pilot project. Therefore, my decision on this application is based on Quebec's *Code of Civil Procedure* and not on the *Federal Courts Rules*. I will explain later in these reasons the basis and the terms of this substitution.

I. Statutory and Factual Background

[4] The cause of action stated by the applicant results from the interaction between complex statutory schemes. To ensure a proper understanding of the context of the application, I will describe the main characteristics of each of these schemes and highlight the problem at the root of the action that the applicant wishes to institute. I will then review the specific facts underlying the applicant's personal claim.

A. *The Canada Child Benefit, the GST/HST Credit and the Related Provincial Allowances*

[5] For a long time, each level of government has been providing financial support to children and families. This is a major component of the social safety net. By providing such support, governments want to not only increase the birth rate, but also to ensure that all children's essential needs are met, regardless of their parents' financial means.

[6] Since 2016, the federal government provides its support to families and children mainly through the Canada Child Benefit. The statutory authority for this benefit is found in sections 122.6 to 122.63 of the *Income Tax Act*, RSC 1985, c 1 (5th Supp).

[7] For our purposes, it is enough to highlight the main characteristics of the scheme. Section 122.6 sets out the conditions for eligibility for the Benefit, namely by defining an eligible individual as someone who "primarily fulfils the responsibility for the care and upbringing of the qualified dependant." Special provisions cover joint custody cases. Section 122.61 determines the amount of the Benefit based on a basic annual amount that is gradually reduced when the parents' taxable income exceeds a certain threshold. It also provides that, from a technical perspective, the Benefit is a "deemed overpayment" in respect of income tax, which makes the taxpayer eligible for a refund. The Benefit is therefore a component of the tax system established by the *Income Tax Act*.

[8] The goods and services tax [GST] and harmonized sales tax [HST] credit set out in section 122.5 of the *Income Tax Act* is another form of assistance to families and children. Although the amounts differ, the fundamental principles governing the GST/HST credit are similar to those that govern the Canada Child Benefit. The main difference is that all individuals are eligible based on their income, but a taxpayer with one or more dependent children is entitled to a higher amount.

[9] The Canada Child Benefit and the GST/HST credit have been enhanced in response to the COVID-19 crisis.

[10] In addition, the provinces and territories offer different types of family allowances or child support allowances. In most cases, these benefits are an “overpayment” in respect of provincial income tax, according to a mechanism similar to that of the Canada Child Benefit. In addition, the legislation implementing these schemes explicitly refers to certain components of the system set out in section 122.6 of the *Income Tax Act*. Many of these provinces and territories entrust the system’s administration to the Canada Revenue Agency. In contrast, in Quebec and Manitoba, family allowances are paid through different mechanisms and the system’s administration remains under provincial jurisdiction. A list of the provincial and territorial allowances relevant to this application is found in the appendix to this judgment.

[11] When reviewing provincial and territorial legislation, I also noticed that other types of tax credits or benefits were granted under criteria based on those that govern the Canada Child Benefit or the GST/HST credit, such as the British Columbia Climate Action Tax Credit, the Nova Scotia Affordable Living Tax Credit, or the Newfoundland and Labrador Income Supplement: *Income Tax Act*, RSBC 1996, c 215, sections 8.1 and 8.2; *Nova Scotia Affordable Living Tax Credit Regulations*, NS Reg 178/2013; *Income Tax Act, 2000*, SNL 2000, c I-1.1, section 34. Unfortunately, the fragmentary information provided by counsel for the applicant about these provincial and territorial allowances does not allow me to paint a complete picture.

B. *Child Welfare Legislation*

[12] This case concerns the functioning of the Canada Child Benefit, the GST/HST credit and some provincial and territorial allowances in a situation where a child is a subject of child

protection measures. A brief description of child protection or child welfare regimes is thus in order.

[13] It is generally accepted that parents are primarily responsible for the upbringing of their children. For example, article 599 of the *Civil Code of Québec* gives parents "the rights and duties of custody, supervision and education of their children." Yet parents are sometimes incapable of discharging these duties. In these circumstances, State intervention is warranted and the State can remove children from their families and place them in foster families or, in some cases, in an institution such as a group home, when this is in the children's best interests. This system is called youth protection or child welfare. The parents' primary role regarding the upbringing of their children and the subsidiary role of the State with respect to youth protection are recognized in the *Convention on the Rights of the Child*, RT Can 1992 no 3, art 3, 5, 19 and 20; see also *B (R) v Children's Aid Society of Metropolitan Toronto*, [1995] 1 SCR 315 at 370–371, and *Winnipeg Child and Family Services v KLW*, 2000 SCC 48 at paragraphs 72–80, [2000] 2 SCR 519.

[14] Each Canadian province and territory has enacted youth protection legislation. In Quebec, where the applicant lives, this legislation is the *Youth Protection Act*, CQLR, c P-34.1. In addition, through section 18 of *An Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019, c 24, Parliament acknowledged that Indigenous peoples have legislative authority in this area.

[15] Current provincial and territorial legislation share a similar basic structure. They authorize State representatives to take various measures when they believe that a child's safety or development is at risk. These measures can go as far as removing a child from his or her family and placing the child in a foster family or in an institution.

[16] The application of these laws is entrusted to various agencies in each province. For example, in British Columbia, it is entrusted to the Minister of Children and Family Development; in Ontario, it is entrusted to agencies called children's aid societies. There are also Indigenous child and family services agencies in every part of the country. In Quebec, officers called directors of youth protection enforce the legislation. These directors carry out their duties within agencies formerly known as "centres jeunesse" or "youth centres," which are now part of the Centres intégrés de santé et de services sociaux (CISSS or CIUSSS) [integrated health and social services centres and integrated university health and social services centres].

C. *Children's Special Allowances*

[17] When a child is placed in a foster family or an institution, it may seem odd for the State to continue paying family allowances to the child's parents. It is probably for this reason that Parliament enacted the *Children's Special Allowances Act*, SC 1992, c 48, Sch. This legislation provides for the payment of an allowance to an agency to which a child is entrusted under provincial or territorial youth protection legislation. The amount of this allowance is the maximum amount of the Canada Child Benefit without reductions based on the parents' income. Eligibility for the special allowance is determined on a monthly basis. In this regard, subsection 4(3) states that this allowance is not paid for the month during which the child starts to be under

the agency's care and subsection 4(4) states that the last payment is for the month during which the child ceases to be under the agency's care.

[18] When a special allowance is paid to an agency with respect to a child, the Canada Child Benefit ceases to be paid to that child's parents. This results from the definition of "qualified dependant" in section 122.6 of the *Income Tax Act*. This definition excludes a child

… in respect of whom a special allowance under the Children's Special Allowances Act is payable for the month that includes that time.	… pour qui une allocation spéciale prévue par la Loi sur les allocations spéciales pour enfants est payable pour le mois qui comprend ce moment.

[19] Thus, when a child is the subject of a placement under youth protection legislation, the Canada Child Benefit is replaced by the children's special allowance. In other words, the financial transfer from State to individual becomes an intergovernmental transfer.

[20] The same rule applies to the GST/HST credit because paragraph 122.5(2)(e) of the *Income Tax Act* states that a child for whom a special allowance is paid is not a "qualified dependant" for purposes of that credit.

[21] In addition, according to information in the record, when a child is placed, the Canada Revenue Agency also ceases to pay his or her parents the provincial or territorial children's allowance when the CRA is in charge of administering it. The basis for this decision stems from either a reference to the concept of "qualified dependant" defined by section 122.6 of the *Income Tax Act* (in Alberta, New Brunswick, Ontario, Saskatchewan, Newfoundland and Labrador and

Yukon legislation), or from a definition of "qualified dependant" that excludes a child for whom an allowance is paid under the *Children's Special Allowances Act* (in British Columbia, Prince Edward Island, Nova Scotia, Nunavut and Northwest Territories legislation).

D. *Contested Exclusion – "Part-time Placement"*

[22] This dispute arises from the interaction between the benefit regimes that I just described and a particular aspect of youth protection legislation. I will use Quebec legislation to illustrate it.

[23] The youth protection authorities' intervention is generally seen as temporary. The objective is to correct the situation that gave rise to the intervention and to allow the child to return to his or her family. Thus, section 4, paragraph 1 of the *Youth Protection Act* states that "[e]very decision made under this Act must aim at keeping the child in the family environment." For that purpose, various provisions of the legislation allow contacts between the child and his or her parents, even when the child is in the care of a foster family or housed in an institution. For example, the third paragraph of section 91 of the Act states that the tribunal may

… authorize that personal relations between the child and the child's parents, grandparents or another person be maintained, in the manner determined by the tribunal; it may also provide for more than one environment to which the child may be entrusted and state how long the child is to stay in each of those environments.	… dans son ordonnance, autoriser le maintien des relations personnelles de l'enfant avec ses parents, ses grands-parents ou une autre personne, selon les modalités qu'il détermine; il peut également prévoir plus d'un milieu auquel l'enfant sera confié et indiquer les périodes de temps pendant lesquelles l'enfant doit demeurer confié à chacun de ces milieux.

[24] The gradual return of a child to his or her family is also contemplated by section 92.1, where a court order has expired. In addition, where a court orders the placement of a child in a foster family for a fixed period, the director of youth protection may implement a gradual return of the child to his or her family. In 2017, an amendment to the *Youth Protection Act* acknowledged and set guidelines for this practice:

62.1 When the tribunal orders that the child be entrusted to an alternative living environment, the director may authorize the child to stay, for periods of not more than 15 days, with his father or mother, with a person who is important to the child, in particular his grandparents or other members of the extended family, with a foster family or within a body, provided those stays are in keeping with the intervention plan and respect the interest of the child.	**62.1** Lorsque le tribunal ordonne que l'enfant soit confié à un milieu de vie substitut, le directeur peut autoriser des séjours d'au plus 15 jours chez son père ou sa mère, chez une personne significative pour lui, notamment ses grands-parents et les autres membres de la famille élargie, en famille d'accueil ou au sein d'un organisme, pourvu que le séjour s'inscrive dans le plan d'intervention et respecte l'intérêt de l'enfant.
With a view to preparing the child's return to his family or social environment, the director or a person authorized by the director under section 32 may authorize the child to stay with his father or mother, with a person who is important to the child, with a foster family or within a body for extended periods during the last 60 days of the order entrusting the child to an alternative living environment.	Le directeur ou une personne qu'il autorise en vertu de l'article 32 peut, en vue de préparer le retour de l'enfant dans son milieu familial ou social, autoriser des séjours prolongés de l'enfant chez son père ou sa mère, chez une personne significative pour lui, en famille d'accueil ou au sein d'un organisme dans les 60 derniers jours de l'ordonnance confiant l'enfant à un milieu de vie substitut.

[25] In short, it is common for a child to be the subject of a protective measure, including placement in a foster family, while being in the care of his or her parents for a significant portion of the duration of the measure. The applicant used the expression “part-time placement” to designate such a situation, although it is not a concept defined or acknowledged by the *Youth Protection Act* or by similar legislation in the other provinces or territories. The expression “joint custody” was also used to describe this situation, but not in its usual family law sense. It seems that in most cases, especially those that fall under section 62.1, the court order entrusts the child exclusively to the director. If the child lives “part-time” with his or her parents, this is the result of a decision made by the director.

[26] Eligibility for the Canada Child Benefit, the children’s special allowance, or the other allowances at issue is determined on a monthly basis. The relevant statutory provisions do not contemplate the sharing of these benefits between a child’s parents and a child welfare agency during a given month. Under subsection 3(1) of the *Children’s Special Allowances Act*, this allowance is paid to the agency that “maintains” this child in a given month. This concept of “maintenance” is defined in section 9 of the *Children’s Special Allowances Regulations,* SOR/93-12:

9. For the purposes of the Act, a child is considered to be maintained by an applicant in a month if	**9.** Pour l’application de la Loi, un enfant est considéré comme étant à la charge du demandeur pour un mois donné si :
(a) the applicant, at the end of the month, provides for the child’s care, maintenance, education, training and advancement to a greater extent than any other	*a)* soit le demandeur est à la fin de ce mois celui qui assure le soin, la subsistance, l’éducation, la formation et le perfectionnement de l’enfant dans une plus large mesure que tout autre ministère,

department, agency or institution or any person;	organisme ou établissement, ou toute personne;
[…]	[…]

[27] According to the Canada Revenue Agency, where a child is in the care of a youth protection agency, that agency "provides for the child's care" and "maintains" that child. The fact that the agency can allow the child to stay temporarily with his or her parents is of no import. In this perspective, what matters is the agency's legal control over the child. In a letter to the applicant, the Assistant Deputy Commissioner of the Canada Revenue Agency explained the consequences of this interpretation.

> [TRANSLATION]
> Where a child is in the care of a child protection agency or a foster family, the *Income Tax Act* no longer considers this child as a qualified dependant for purposes of [the Canada Child Benefit]. Consequently, eligibility for [Canada Child Benefit] payments for this child ends, even if there is joint custody between the foster family and one of the child's parents.

[28] It follows that child welfare agencies can apply for the children's special allowance for the entire period during which they have legal custody of a child (e.g. under a court order), even if the child is staying with his or her parents during part of this period. A representative from the CIUSSS du Centre-Sud-de-l'Île-de-Montréal told the applicant that this agency's policy was to claim the special allowance in "part-time" situations, even if a child were to spend only one day with the foster family in a given month.

[29] The applicant puts forward a different interpretation of section 9 of the Regulations. She stresses the fact that for a child to be considered to be maintained by an agency, the child must be

"dependent on the agency for his or her care . . . to a greater extent than on any other department, agency or institution or on any person." The expression "any person" includes parents. Therefore, every month, the care given to the child by the parents and the agency, respectively, must be compared. The applicant did not want to explain how such a comparison could be made, but she agreed that it could be based on number of days. In this perspective, a child who is the subject of a youth protection measure may be considered as being maintained by his or her parents, where he or she stays with them for more than half of a given month. In such a case, the agency would lose the right to receive the children's special allowance and, as a result, the parents would become eligible to receive the Canada Child Benefit.

E. *The Applicant's Situation*

[30] The applicant's situation illustrates the difficulties arising from the interaction among the various allowance regimes where a child is legally under the custody of a child protection agency, but is in fact staying with his or her parents. The applicant is a single mother of two. In November 2016, her children were placed under the care of the Centre jeunesse de Montréal. The file contains no information regarding the reasons for or the terms and conditions of this intervention. Thus, we do not know whether this placement arises from a voluntary measure or from a judgment of the Youth Chamber of the Court of Québec.

[31] According to the application for authorization, the children always stayed with the applicant for a certain number of days per month. As of March 2017, they gradually returned to live with the applicant until the Centre jeunesse's intervention came to an end in July 2018.

During this period, the children spent between 10 and 20 days—sometimes slightly more—per month with their mother.

[32] In January 2017, the Centre jeunesse de Montréal submitted an application for the children's special allowance with respect to the applicant's children. This application was approved, and the applicant ceased to be eligible for the Canada Child Benefit and the portion of the GST/HST credit associated with her dependent children. The Canada Revenue Agency sent her a notice to that effect.

[33] In March 2018, the applicant submitted an application to receive a portion of the Canada Child Benefit and said that she shared custody of her children with the Centre jeunesse de Montréal. An excerpt from her application provides a telling account of the consequences of no longer receiving the Canada Child Benefit:

> [TRANSLATION]
> The Centre jeunesse de Montréal – Institut universitaire has had legal custody of my children since December 26, 2016. However, I have custody of and responsibility for my children almost 50% of the time. My children live with me all day and sleep at my home almost 50% of the time. As of March 2018, my children will live with me almost 70% of the time, and 100% of the time as of June 2018.
>
> I have to pay for larger housing to accommodate my children and I have to feed them. I have to pay for their clothes, shoes, coats, boots, bus passes, hygiene products, school activities, cultural activities, sports activities, and several things that they need for their physical and intellectual development.
>
> I have no income other than social assistance from the Government of Quebec, and I do not have the financial means to meet my children's needs. The Canada Child Benefit is vital so that I can provide my children with their basic needs.

[34] In her application for authorization, the applicant says that her move into more spacious housing results from a requirement imposed by the Centre jeunesse as a condition for the gradual return of her children.

[35] The Canada Revenue Agency denied this application. Only when the CIUSSS du Centre-Sud-de-l'Île-de-Montréal, which replaced the Centre jeunesse de Montréal, notified the Canada Revenue Agency that the applicant's children were no longer in its care as of July 2018 did the applicant once again become eligible for the Canada Child Benefit and a more substantial GST/HST credit. Therefore, since that time, the applicant received a Canada Child Benefit of about $10,000 per year and her GST/HST credit increased by about $450.

[36] To put these amounts into perspective, it must be pointed out that the applicant's annual net income, listed on various documents filed in evidence, does not exceed $10,000. Thus, the Canada Child Benefit substantially strengthens the applicant's ability to meet her children's needs.

[37] In 2018 and 2019, the applicant took several steps to make elected representatives and the media aware of the situation of parents like her who lose the Canada Child Benefit when their children stay with them "part-time." These steps gave rise to articles published in the daily newspaper *Le Devoir*. The statements made by representatives of both levels of government, either in these articles or directly to the applicant, give the impression that they are only trying to pass the buck, even if they are aware of the problem.

[38] In December 2019, the applicant submitted an application for authorization to institute a class action before the Federal Court. She seeks to represent anyone who was denied the Canada Child Benefit, the GST/HST credit, or a provincial or territorial allowance because their child was “placed part-time” in a foster family or a child protection facility.

II. Analysis

[39] I am dismissing the application for authorization to institute a class action, essentially because the case does not fall under the jurisdiction of the Federal Court, but under that of the Tax Court of Canada.

[40] I reach this conclusion based on the Quebec rules governing class actions. Both parties agreed to the application of these rules in the context of the procedural bijuralism pilot project. Among other things, these rules require the applicant to show that the facts stated in her application “appear to justify the conclusions sought.” It is well established that such a demonstration cannot succeed when the intended action falls under the jurisdiction of a specialized tribunal. Yet, any dispute regarding the benefits at issue in this application is subject to the procedure established in tax legislation, which culminates in an appeal to the Tax Court of Canada or, in cases of provincial and territorial allowances, to the courts of the various provinces and territories. The applicant also failed to show an independent cause of action falling under the jurisdiction of the Federal Court. The authorization to institute a class action must therefore be dismissed.

[41] In the following pages, I explain each component of this reasoning.

A. *Procedural Bijuralism Pilot Project*

[42] Both parties in this case have agreed to be part of the procedural bijuralism pilot project initiated by the Federal Court of Appeal and the Federal Court. Where both parties are represented by members of the Barreau du Québec, this pilot project allows for the application of the *Code of Civil Procedure*, CQLR, c. C-25.01 [the Code] instead of the *Federal Courts Rules*, SOR/98-106 [the Rules]. This pilot project covers proceedings brought as actions, but not those brought as applications for judicial review. Nothing excludes its application to class actions.

[43] By initiating this pilot project, the Federal Courts acknowledge the significant differences in the expression of procedural law in Quebec and in the other Canadian provinces and territories. Even if Quebec judicial institutions draw heavily on British tradition, civil procedure also draws from French sources, especially in terms of concepts. In addition, Quebec procedural law is codified. As Justice Louis LeBel of the Supreme Court of Canada stated in *Lac d'Amiante du Québec Ltée v 2858-0702 Québec Inc.*, 2001 SCC 51 at paragraph 35, [2001] 2 SCR 743, "[t]he rules of that law are found in a code that is expressed in general terms. The law is therefore created primarily by the legislature." This distinguishes Quebec procedural law from that of common law jurisdictions and the Federal Courts, in which the key steps in the conduct of the proceedings are provided for by rules adopted by the courts in collaboration with representatives from the bar. See, for example, the *Federal Courts Act*, RSC 1985, c. F-7, sections 45.1 and 46 [the Act]. Lastly, Quebec procedural law often uses a vocabulary that differs from that of the rules of court of other provinces or territories and those of the Federal Courts. Because of these differences, Quebec lawyers—especially those who appear only

occasionally before the Federal Courts—may find it difficult to comply with the Rules. To promote better access to justice, the pilot project aims at removing these hurdles by allowing the Code to be substituted for the Rules.

[44] It is useful to clarify the basis of this substitution. Rule 55 gives this Court discretionary authority to depart from the Rules. On that basis, this Court, with the parties' consent, can order that a case proceed under the Code instead of the Rules. However, rule 55 does not allow the Court to set aside the provisions of the Act. The Act therefore continues to apply to proceedings that are subject to the pilot project (e.g. with respect to the jurisdiction of the Federal Court or the time limit for filing an appeal).

[45] The provisions governing class actions in the Federal Court are found in the Rules, not in the Act. Thus, under the pilot project, the provisions in the Code may be substituted for them. This is why I will decide this application based on articles 571 et seq. of the Code. I will also use the vocabulary of the Code, namely the French expression "*action collective*" instead of "*recours collectif*" and the English term "authorization" instead of "certification."

B. *Analytical Framework of Article 575 of the Code*

[46] Article 575 of the Code sets forth the conditions that the applicant must meet to obtain authorization to institute a class action.

575. The court authorizes the class action and appoints the class member it designates as representative plaintiff if it is of the opinion that	**575.** Le tribunal autorise l'exercice de l'action collective et attribue le statut de représentant au membre

	qu'il désigne s'il est d'avis que:
(1) the claims of the members of the class raise identical, similar or related issues of law or fact;	1° les demandes des membres soulèvent des questions de droit ou de fait identiques, similaires ou connexes;
(2) the facts alleged appear to justify the conclusions sought;	2° les faits allégués paraissent justifier les conclusions recherchées;
(3) the composition of the class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings; and	3° la composition du groupe rend difficile ou peu pratique l'application des règles sur le mandat d'ester en justice pour le compte d'autrui ou sur la jonction d'instance;
(4) the class member appointed as representative plaintiff is in a position to properly represent the class members.	4° le membre auquel il entend attribuer le statut de représentant est en mesure d'assurer une représentation adéquate des membres.

[47] The defendant does not dispute the application of paragraphs 1, 3 and 4 of this article. Given the manner in which I am deciding the case, it is not necessary to discuss these criteria. My analysis will focus only on paragraph 2, the *prima facie* case test.

[48] What does the *prima facie* case test mean? To truly grasp its scope, we must look back at the problematic situation that developed in the first two decades of class actions in Quebec. Defendants deployed considerable means to oppose applications for authorization. Applicants, who had to sign a sworn statement in support of their application for authorization, were frequently subjected to long cross-examinations. Defendants filed elaborate evidence regarding

the merits of the case. The application for authorization, which was supposed to be a mere screening device, became a general rehearsal of the trial. Reacting to these excesses, the Quebec National Assembly amended the Code in 2003 to simplify the authorization procedure. The applicant no longer needs to file a sworn statement and, in principle, can no longer be cross-examined. The defendant can only produce evidence with the court's authorization. Recalibrated in this manner, the class action authorization process furthers the purposes of reducing costs, improving access to justice and deterring harmful conduct: *Western Canadian Shopping Centres Inc v Dutton*, 2001 SCC 46 at paragraphs 27 to 29, [2001] 2 SCR 534.

[49] Quebec courts now interpret the concept of a "*prima facie* case" in a manner compatible with the objectives of the 2003 reform. It is not necessary to conduct a thorough review of their case law. For the purposes of these reasons, it will suffice to refer to the most recent Supreme Court of Canada judgment on this topic: *L'Oratoire Saint-Joseph du Mont-Royal v J.J.*, 2019 SCC 35 [*Oratoire*].

[50] At paragraphs 58 to 62 of this judgment, the Supreme Court gives guidelines that can be summarized as follows: A *prima facie* case is not a demanding test, even if it is not a mere formality. The applicant must prove that the legal syllogism at the root of the action is tenable. However, it does not have to prove likelihood of success. For the purposes of this exercise, the facts stated in the application and in the exhibits that accompany it must be taken as proven, as long as they are sufficiently precise. The purpose of the exercise is to exclude actions that are frivolous or clearly improper.

[51] Two aspects of this analytical framework must be explained. Firstly, the deference that is appropriate when assessing the *prima facie* case test does not prevent the court from addressing certain questions of law or, in other words, the major premise of the syllogism. The Supreme Court acknowledges this possibility in *Oratoire*, at paragraph 55:

> … A court *may*, of course, decide a pure question of law at the authorization stage if the outcome of the proposed class action depends on its doing so, and to some extent the court *must* also interpret the legislation to determine whether the proposed class action is "frivolous" or "clearly wrong" in law.

[52] Since at least *Société Asbestos limitée v Lacroix*, 2004 CanLII 76694 (Que CA), the courts have acknowledged that issues related to jurisdiction *ratione materiae*—that is, jurisdiction in relation to a specific subject-matter—are part of the questions of law that must generally be decided at the authorization stage. Therefore, an application that does not fall under the jurisdiction of the court to which it is submitted is considered clearly unfounded and does not satisfy the *prima facie* case test: *Bouchard v Canada (Procureur général)*, 2019 QCCA 2067.

[53] Secondly, vague, general or bald allegations or allegations stating opinions instead of facts do not satisfy the *prima facie* case test: *Oratoire* at paragraphs 59 and 110. In addition, according to paragraph 2 of article 575, the "facts alleged" must be taken as proven, not the legal characterization that the applicant seeks to attribute to them. See, by analogy, *Canada (Attorney General) v Confédération des syndicats nationaux*, 2014 SCC 49 at paragraph 20, [2014] 2 SCR 477; *R. v Société des alcools du Québec*, 1998 CanLII 13129 (Que CA) [*Société des alcools*].

C. *Exclusive Jurisdiction of the Tax Court of Canada*

[54] In substance, the class action that the applicant proposes to file seeks payment of the Canada Child Benefit, the GST/HST credit and provincial allowances. Yet, with respect to the first two types of benefits, the *Income Tax Act* provides for an exclusive recourse to obtain such relief: the taxpayer must file a notice of objection and then appeal to the Tax Court of Canada. The applicant did not exercise this recourse. For the following reasons, she cannot now institute a class action to remedy her failure to follow the applicable procedure. In other words, this Court's lack of jurisdiction negates her *prima facie* case. As for provincial allowances, the result is the same because each province's legislation also provides for an exclusive recourse.

(1) General Principles

[55] The coexistence between the class action and the jurisdiction of specialized tribunals raises thorny issues. When a type of dispute falls under the jurisdiction of a specialized tribunal or an administrative body, could a class action still be instituted before the ordinary courts? One might think that such a solution would promote better access to justice. However, the Supreme Court of Canada decided otherwise in *Bisaillon v Concordia University*, 2006 SCC 19, [2006] 1 SCR 666 [*Bisaillon*]. Justice LeBel stated, at paragraph 17, that the class action remains "a procedural vehicle whose use neither modifies nor creates substantive rights." From that he deduces, at paragraph 19, that "recourse to this procedural vehicle does not change the legal rules relating to subject matter jurisdiction." Thus, for example, no class action can be instituted where jurisdiction on the subject of the proposed action is exclusively assigned to a labour arbitrator (*Bisaillon*), to the Régie du logement (*Létourneau v Boardwalk Real Estate Investment Trust*,

2018 QCCS 206, affirmed *sub nom Veer v Boardwalk Real Estate Investment Trust*, 2019 QCCA 740), or to the Tax Court of Canada (*R v Hamer*, 1998 CanLII 12752 (Que CA)).

[56] Such a result is not necessarily an obstacle to access to justice. Specialized decision-makers or administrative tribunals usually adopt a flexible and quick procedure. It is often easier and more cost effective for litigants to assert their rights before such a body rather than before the ordinary courts, especially if they are not represented by counsel. The specialization of these bodies allows them to deliver justice more effectively. Therefore, we must adhere to the procedure chosen by the legislature for asserting certain categories of rights.

[57] It is generally acknowledged that, to determine whether an application falls under the jurisdiction of a specialized body, its essential nature must be ascertained; the characterization that the applicant seeks to give to it is not determinative: *Bisaillon*, at paragraphs 30-31; *Québec (Procureur général) v Charest*, 2004 CanLII 46995 (Que CA) at paragraphs 11-13 [*Charest*]; *Pednault v Compagnie Wal-Mart du Canada*, 2006 QCCA 666 at paragraphs 23-25.

(2) Application to the Proposed Action

[58] What is the essence of the action that the applicant proposes to institute? There is no doubt that the applicant is seeking payment of the allowances that she believes were unlawfully withheld from her. It does not assist the applicant to portray her claim as an action for extracontractual liability—or, presumably, an action based on the tort of negligence for members of the group outside Quebec.

[59] The analysis of the application for authorization confirms that this is indeed the essence of the proposed action. The action first seeks declaratory and injunctive relief. The applicant is asking this court to rule that the members of the group are entitled to the Canada Child Benefit and to the GST/HST credit, and to order the defendant to pay them these benefits. The applicant is also claiming compensatory damages in an amount equivalent to that of the benefits unlawfully withheld from the members of the group.

[60] The proposed action clearly aims at obtaining the performance of an obligation stemming directly from the *Income Tax Act*, not from extracontractual liability set out in section 1457 of the *Civil Code of Québec* or, in common law jurisdictions, from the tort of negligence. The fact that the applicant is adding a claim for moral and punitive damages does not change the essential nature of the claim.

[61] With respect to the Canada Child Benefit and the GST/HST credit, the claim falls under the objection process laid out by the *Income Tax Act*. A subsequent judicial challenge falls under the jurisdiction of the Tax Court of Canada. From a technical perspective, the benefits at issue are deemed payments in respect of income tax. Therefore, these amounts reduce the tax that a person must pay and may even entitle them to a refund. This amount owing or this refund is determined through a notice of assessment issued under section 152 of the *Income Tax Act*. Taxpayers who disagree with an assessment must file a notice of objection under section 165. The Agency must then make a re-determination. Dissatisfied taxpayers can then institute an appeal with the Tax Court of Canada under section 169.

[62] Indeed, the Tax Court of Canada has decided cases related to the Canada Child Benefit, the benefits that preceded it, and the GST/HST credit: *Surikov v The Queen*, 2008 TCC 161 [*Surikov*]; *Jahnke v The Queen*, 2008 TCC 544; *Murphy v The Queen*, 2009 TCC 110; *Weidenfeld v The Queen*, 2010 TCC 265, affirmed 2010 FCA 333; *Karim v The Queen*, 2016 TCC 91. The basis for the Tax Court of Canada's jurisdiction was reviewed in detail in *Surikov*.

[63] In these circumstances, as the Quebec Court of Appeal stated in *Hamer*, the remedies provided by the *Income Tax Act* are exclusive and the Superior Court cannot hear the matter on the basis of its inherent jurisdiction. The same reasoning applies if one invokes the jurisdiction of the Federal Court regarding claims against the federal government flowing from section 17 of the *Federal Courts Act*.

[64] This Court also lacks jurisdiction regarding the claims for certain provincial and territorial allowances. Although the applicant claims that her action is extracontractual and holds the Canada Revenue Agency responsible for the management of these allowances, in substance, the purpose of the application is to receive payment of these allowances. In each province or territory, the legislation provides for assessment and objection processes and a judicial recourse before the provincial or territorial superior court. As the Quebec Court of Appeal stated in *Hamer*, such legislation ousts the inherent jurisdiction of the ordinary courts and excludes class actions.

[65] In addition, independently of the foregoing, if the essential nature of the claim is the performance of an obligation arising exclusively from provincial or territorial legislation, it

exceeds the bounds that section 101 of the *Constitution Act, 1867* sets to the jurisdiction of the Federal Court.

[66] The fact that the applicant portrays her claim as an action in extracontractual liability does not allow her to circumvent the jurisdiction of courts specialized in tax matters: *Produits forestiers Arbec inc v Attorney General of Canada*, 2019 QCCA 1267. For example, in *Charest*, the Quebec Court of Appeal was asked to authorize a class action for payment of benefits denied to same-sex partners. To avoid a motion to dismiss, the applicant had amended his action to ground it in extracontractual liability. The Court of Appeal was not impressed by this contrivance, stating at paragraph 13 of its judgment:

> These cosmetic modifications have the effect of revealing under the skillful pen of the Respondent's lawyer new and even ingenious causes of action. These modifications do not have the effect of modifying the essence of the dispute. The object of the lawsuit is always to obtain the payment of indemnities or other benefits of which same-sex spouses have been deprived. To characterize the amounts in question as damages does not change the substance of the dispute identified in the original proceedings.

[67] Similarly, *Canada v Roitman*, 2006 FCA 266 [*Roitman*], dealt with an application for certification of a class action claiming damages arising from the fact that the Canada Revenue Agency allegedly made assessments on the basis of an erroneous interpretation of the law. Justice Robert Décary of the Federal Court of Appeal held that the matter came under the exclusive jurisdiction of the Tax Court of Canada and stated, at paragraph 24:

> The damages are in reality sought on the basis of an invalid reassessment made on the basis of a wrong interpretation of the law. For all practical purposes, then, it is the very legality or correctness in law of the notice of reassessment which is at issue. This, clearly, is a matter within the exclusive jurisdiction of the Tax Court of Canada.

[68] The applicant argues that, in *Canada (Attorney General) v TeleZone Inc*, 2010 SCC 62, [2010] 3 SCR 585 [*TeleZone*], and *Gagnon v Amazon.com inc*, 2019 QCCA 1166 [*Gagnon*], the courts allowed the applicant to choose between an action in extracontractual liability and an administrative law recourse. Yet these two cases can be distinguished from the present one.

[69] In *TeleZone*, the applicant sued the federal government for damages because of errors committed in a tendering process for cellular telephone licences. The federal government objected to the action, arguing that an application for judicial review of the decision to award the licences had to be filed beforehand. The Supreme Court dismissed this argument and held that the applicant could elect to sue for damages instead of bringing an application for judicial review. However, there is a significant difference between the situation in *TeleZone* and this case. There is no specific statutory process to provide compensation for those who suffered harm because a tendering process did not comply with the applicable rules. The action is governed by the general law. Consequently, *TeleZone* did not focus on the conflict between the respective jurisdictions of specialized tribunals and ordinary courts. See *Sorbara v Canada (Attorney General)*, 2008 CanLII 61246 at paragraph 50 (Ont SCJ), affirmed 2009 ONCA 506. Conversely, a person who claims to have been unlawfully denied the Canada Child Benefit or the GST/HST credit must file a notice of objection and bring their case before the Tax Court of Canada. This jurisdiction is exclusive and cannot be eschewed in favour of a claim in extracontractual liability or an application for judicial review. The interaction between the latter two recourses, which was at the heart of *TeleZone*, is simply not at issue in this case.

[70] *Gagnon* focused on taxes that consumers had paid in error to a retailer. The class action at issue was not against the government, but against the retailer, and was based on the provisions of the *Consumer Protection Act*, CQLR, c P-40.1. It is clear that an action against the retailer does not fall under the jurisdiction of the Tax Court of Canada or the Court of Québec. This case does not assist the applicant.

D. *The Lack of Merit of any Claim not Falling Under the Jurisdiction of the Tax Court of Canada*

[71] The applicant also alleges causes of action that would not be directly related to payment of the benefits at issue, but rather based on separate extracontractual faults. I find that the applicant did not state sufficiently precise facts to support these causes of action. Before I review these allegations in detail, two things must be kept in mind.

[72] Firstly, the wrongful character of the acts cannot depend on the interpretation that the applicant gives to tax legislation. Otherwise, the applicant could indirectly challenge an assessment to which she did not object in a timely manner. See, by analogy, *Moscowitz v Québec (Procureur général)*, 2020 QCCA 412. If it were to entertain such a claim, the Federal Court would also be stepping upon the exclusive jurisdiction of the Tax Court of Canada. Justice Décary summarized this idea as follows in *Roitman*, at paragraph 20:

> It is settled law that the Federal Court does not have jurisdiction to award damages or grant any other relief that is sought on the basis of an invalid reassessment of tax unless the reassessment has been overturned by the Tax Court. To do so would be to permit a collateral attack on the correctness of an assessment.

[73] Secondly, public officials are not at fault by merely adopting an interpretation of the legislation that is subsequently overturned by the courts. It is true that tax authorities are sometimes held responsible for the harm caused by their fault. However, in such cases, evidence of abuse, unreasonable conduct or bad faith is required. The Court of Appeal summarized the applicable test as follows in *Ludmer v Attorney General of Canada*, 2020 QCCA 697, at paragraph 45 (references omitted):

> Neither a breach of statute nor an invalid or unlawful decision are themselves sufficient to create a cause of action under the civil liability regime. In fact, the issuance of a tax assessment, even erroneous, is not a fault in itself, and neither is the misinterpretation of a statutory provision. The incorrect application of a law or regulation may, however, result in compensation if the interpretation applied was unreasonable or made in bad faith. Consequently, the determination of the civil liability of the CRA must be examined in the context of the issuance of the assessments, and in light of whether or not there was negligence or carelessness having regard to the circumstances of the disputed acts or conduct.

[74] In this respect, an unsupported allegation of bad faith or abuse of power is insufficient, even in the context of an application for authorization to institute a class action. Neither bad faith nor abuse of power are facts. They are legal characterizations that can be given to a set of facts. Allegations concerning such characterizations are without merit if they are not based on concrete facts. As Justice Paul-Arthur Gendreau of the Quebec Court of Appeal stated in *Société des alcools*: [TRANSLATION] “it is the alleged facts that must be taken as proven and not the description given to them by the plaintiff in his pleadings.”

(1) Improper Verification of the Agencies' Applications

[75] The applicant mainly targets the process implemented by the Canada Revenue Agency for handling special allowance applications submitted by youth protection agencies. According to the evidence in the record, the process is quite simple. The Agency merely checks whether the form submitted contains the required information. It does not require supporting documents with the application and does not conduct verifications. For example, the CRA does not receive a copy of the judgment that gives the agency custody of the child and, consequently, does not know the exact terms of the agency's intervention.

[76] The applicant states that in proceeding in this manner, the CRA is committing intentional faults and gross negligence, illegally subdelegating its decision-making authority, and engaging in abuse of power. However, when we set aside the verbal inflation and focus on the facts alleged or in evidence, nothing supports an allegation of fault. The *Children's Special Allowances Regulations* set out a very simple procedure. Nothing in these regulations requires the CRA to obtain written evidence to buttress the statements in the application form or to conduct verifications and investigations. Indeed, this is consistent with the philosophy of self-assessment that underpins Canadian tax legislation. Agencies are also not required to provide periodic reports. Their only obligation is to inform the Canada Revenue Agency when a child is no longer in their care and no longer entitles the agency to receive a special allowance.

[77] With respect to her personal situation, the applicant argues that the form sent by the Centre jeunesse de Montréal in January 2017 should have been signed, but was not. Even

assuming that the acceptance of a non-compliant form constitutes a fault, I fail to see how such a fault would have a causal relationship with any harm suffered by the applicant. Nothing proves that this issue is widespread or that it affects other members of the group.

[78] Lastly, the allegations regarding the inappropriate character of the application review process can hardly be separated from the applicant's interpretation of section 9 of the *Children's Special Allowances Regulations*. Only if this interpretation is upheld would a more demanding review process have some use. At the end of the day, allegations of fault related to the process are nothing but a rewording of the arguments regarding the interpretation of the provisions that govern eligibility for the benefits at issue.

(2) Illegal Subdelegation and Conflict of Interest

[79] The applicant also argues that the Canada Revenue Agency subdelegated its decision-making authority to youth protection agencies because it did not check the statements in the applications submitted by those agencies. Allegedly, these agencies also found themselves in a conflict of interest because they stand to benefit from the children's special allowance.

[80] In reality, this situation is simply a consequence of the self-assessment policy. In the vast majority of cases, the Canada Revenue Agency relies on income tax returns filed by taxpayers to establish the tax that they must pay. This is neither an illegal subdelegation nor a conflict of interest. The same is true of the process implemented by the *Children's Special Allowances Act* and its regulations. These allegations in the application for authorization are devoid of merit.

(3) Use of the Special Allowance

[81] Subsection 3(2) of the *Children's Special Allowances Act* states that the allowance shall be "applied exclusively toward the care, maintenance, education, training or advancement of the child in respect of whom it is paid." The applicant claims that an agency violates this requirement if it receives the children's special allowance with regard to a child who is in its care only "part time." Yet no concrete facts support this allegation. At the hearing, counsel for the applicant stated that an agency surely did not use the children's special allowance when the child was living with his or her mother for three weeks per month. This is a textbook example of a vague, general and bald statement that does not help prove a *prima facie* case (*Oratoire*, at paragraphs 59 and 110). The allegations in the application are even more fragmentary than those that were judged insufficient in *Harmegnies v Toyota Canada inc*, 2008 QCCA 380, at paragraphs 41 to 47.

(4) Moral Damages

[82] The applicant argues that losing the Canada Child Benefit, the GST/HST credit, and provincial allowances causes the members of the group stress, hardship, wasted time, loss of enjoyment of life, and other monetary losses. They are allegedly entitled to claim moral damages as compensation for this harm.

[83] Yet the applicant cannot claim damages unless the defendant committed a fault. For the reasons stated above, the application for authorization does not allege sufficiently precise facts in support of such a conclusion.

[84] Moreover, ceasing payment of an allowance in cases provided for by law does not, in and of itself, constitute a fault giving rise to extracontractual liability. If an individual believes that the legislation was misinterpreted or improperly applied, he or she must submit a notice of objection and institute an appeal to the Tax Court of Canada. If the initial assessment is changed, the *Income Tax Act* does not provide for payment of moral damages or any form of compensation for hardships that arise from the temporary deprivation of the allowance.

(5) Punitive Damages

[85] The applicant also claims punitive damages. The application for authorization does not state the legal basis of this claim; instead, it merely restates the various epithets that it attaches to the applicant's conduct. In her written submissions, the applicant cites sections 1, 4 and 10 of the *Charter of Human Rights and Freedoms*, CQLR, c C-12 [the Quebec Charter], and sections 7 and 15 of the *Canadian Charter of Rights and Freedoms* [the Canadian Charter]. To succeed, the applicant must state facts that may constitute a breach of the rights guaranteed by these provisions.

[86] A claim for punitive damages based on the charters is independent of extracontractual liability: *de Montigny v Brossard (Estate)*, 2010 SCC 51, at paragraphs 38-46, [2010] 3 SCR 64. Moreover, no one argued that the Tax Court of Canada has jurisdiction to award this type of damages.

[87] However, this claim faces insurmountable obstacles. Given that I found that the allegations of fault against the defendant are not supported by any specific facts, the legal basis

of the claim for punitive damages collapses into a claim of a constitutional or quasi-constitutional right to a form of guaranteed income. In other words, the mere denial of an allowance intended to meet essential needs would be a breach of fundamental rights. Yet, no Canadian court has ever accepted such a proposition.

[88] In *Gosselin v Quebec (Attorney General)*, 2002 CSC 84, [2002] 4 SCR 429 [*Gosselin*], the Supreme Court of Canada ruled that some components of the Quebec social assistance regime did not breach section 7 of the Canadian Charter. Although the majority of the Court did not completely close the door on the idea that section 7 can protect positive rights or socio-economic rights, they stated that such an argument should be supported by specific evidence: *Gosselin*, at paragraphs 80-83; also see *Allen v Alberta*, 2015 ABCA 277, at paragraphs 22-24.

[89] Yet, the application for authorization does not allege any facts that tend to prove that the legislation at issue, or the manner in which it is applied, would breach section 7. The applicant submitted into evidence a certain number of comments made by members of the group and gathered on her counsel's website. These comments show that losing the Canada Child Benefit may be a tough blow to the members of the group, in addition to losing the custody of their children. Although I do not question the sincerity of these statements, this evidence is far from sufficient to establish a breach of section 7.

[90] The preceding comments also apply to the rights protected by sections 1 and 4 of the Quebec Charter, namely life, personal security, inviolability and freedom, and the safeguard of

dignity, honour and reputation. The applicant cites no precedent that would tend to prove that the facts alleged in the application would constitute a breach of these provisions.

[91] The applicant also argues that the group members' right to equality, protected by section 10 of the Quebec Charter and section 15 of the Canadian Charter, was breached. However, she alleges no facts tending to support this argument. In one paragraph of her submissions, she suggests that she suffered discrimination on the basis of her marital status or her social condition. Yet, the Supreme Court of Canada laid out a detailed framework for reviewing alleged breaches of the right to equality: see, for example, *Quebec (Attorney General) v Alliance du personnel professionnel et technique de la santé et des services sociaux*, 2018 SCC 17 at paragraph 25, [2018] 1 SCR 464. Such an analytical framework cannot be applied without a sufficient factual basis: *Kahkewistahaw First Nation v Taypotat*, 2015 SCC 30 at paragraphs 24 and 27, [2015] 2 SCR 548. This basis is totally lacking in this case.

[92] The claim for punitive damages is therefore clearly without merit.

III. Concluding Remarks

[93] The application for authorization to institute a class action must therefore be dismissed. The intended class action falls essentially under the jurisdiction of the Tax Court of Canada and the application does not state specific facts establishing a cause of action falling under this Court's jurisdiction. I come to this conclusion despite my sympathy for the applicant and for people in a similar situation.

[94] It goes without saying that the Canada Child Benefit was implemented for the benefit of children. One can understand that Parliament did not want to extend this benefit to parents who no longer have custody of their child. This is undoubtedly what explains that this benefit ends when a child welfare agency takes custody of the child and receives a special allowance with respect to that child.

[95] Yet, this mechanism seems to have been designed without considering one of the purposes of youth protection legislation, namely ensuring the return of the child with his or her family. In situations of gradual return, the child stays periodically with his or her parents, even if the child welfare agency's intervention has not come to its conclusion. In such situations, appropriate financial support may be essential to allow the parents to take custody of the child while ending the situation that prompted the agency's intervention. Thus, withholding the Canada Child Benefit from the parents in these circumstances seems counterproductive.

[96] Several solutions to this situation can be contemplated. The legislation could be amended. Parliament could take inspiration from Quebec legislation, which does not interrupt payment of the provincial allowance in similar circumstances (see the definition of "eligible dependent child" in section 1029.8.61.8 of the *Taxation Act*, CQLR, c I-3). Provincial agencies could stop claiming the children's special allowance when a gradual return begins. According to the information provided by the applicant, that is what the Government of Saskatchewan does. Lastly, in his memorandum, counsel for the defendant says that nothing in the relevant legislation prevents a child welfare agency from sharing the special allowance with the parents when a child is being gradually returned to them.

[97] One can see that these solutions are within the purview of Parliament or the agencies in charge of applying the legislation at issue. Implementing them is not the province of the judiciary. Absent a constitutional challenge, the judge's role is to apply the legislation, not to amend it. Nevertheless, a judge can draw the attention of the competent authorities to a loophole in the legislation or the unsatisfactory state of the law: *Huang v Canada (Citizenship and Immigration)*, 2013 FC 576, at paragraph 2, [2014] 4 FCR 436. As my colleague Justice Michel Shore stated in *Azzam v Canada (Citizenship and Immigration)*, 2019 FC 1517, at paragraph 5, "[c]alling attention to something is sometimes, and unfortunately, the full extent of a judge's power."

[98] In making the foregoing comments, I do not intend to rule on the interpretation of the *Children's Special Allowances Act* and its regulations because that does not fall under the jurisdiction of the Federal Court. Nothing prevents the applicant or someone in her situation from availing themselves of the recourses set out in the *Income Tax Act* for obtaining a decision on this matter.

IV. Costs

[99] Rule 334.39 states that no costs may be awarded against any party to a class proceeding in the Federal Court. Yet, given that the parties agreed to subject this case to the procedural bijuralism pilot project, this rule does not apply. Sections 339 to 344 of the Code deal with costs. They apply to class actions. Section 340 states that costs "are owed to the party that was successful, unless the court decides otherwise."

[100] I am of the view that costs should not be awarded. According to the evidence in the record, the applicant has extremely modest income. I also note that, although the intended action does not fall under the jurisdiction of the Federal Court, it raises certain public interest issues.

ORDER in T-1914-19

THIS COURT ORDERS that the application for authorization to institute a class action be dismissed.

"Sébastien Grammond"
Judge

APPENDIX

Province or territory	Act or regulation creating a children's allowance	Provisions related to the allowance	Provisions related to recourses
Alberta	*Alberta Personal Income Tax Act*, RSA 2000, c A-30	28, 30.2	1(3)(i), 55, 57
British Columbia	*Income Tax Act*, RSBC 1996, c 215	13.07 et seq.	1(7), 41, 42
Manitoba	*Manitoba Child Benefit Regulation*, Man Reg 85/2008		
New Brunswick	*New Brunswick Income Tax Act*, SNB 2000, c N-6.001	51	7, 83, 84
Newfoundland and Labrador	*Income Tax Act, 2000*, SNL 2000, c I-1.1	38	2(9), 61, 62
Northwest Territories	*Income Tax Act*, RSNWT 1988, c I-1	3.1 to 3.4	1(7), 25, 26
Nova Scotia	*Income Tax Act*, RSNS 1989, c 217 *Nova Scotia Child Benefit Regulations*, NS Reg 62/98	 2, 3	2(10), 63, 64 10
Nunavut	*Income Tax Act*, RSNWT (Nu), 1988, c I-1	3.1, 3.2, 3.3	1(7), 25, 26
Ontario	*Income Tax Act*, RSO 1990, c I.2	8.6.2	1(6), 22, 23
Prince Edward Island	*Income Tax Act*, RSPEI 1988 c I-1	9(4)	1(9), 55, 56
Quebec	*Taxation Act*, CQLR, c I-3	1029.8.61.8 et seq.	
Saskatchewan	*Income Tax Act, 2000*, SS 2000 c I-2.01	38	3(14)(g), 97, 98
Yukon	*Income Tax Act*, RSY 2002, c 118	9	1(7), 34, 35

FEDERAL COURT

SOLICITORS OF RECORD

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