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Featured Court Cases

Barker v. The Queen

2012 TCC 64

Mr. Davies successfully resisted the Crown's attempts to subject an "outside" witness to an examination for discovery in advance of trial, under Rule 99 of the *Tax Court of Canada Rules (General Procedure)*.

Court: Tax Court of Canada
Counsel: Davies, David for the Appellant

Blackmore v. The Queen

2012 DTC 1053

[Case Summary](#)

Mr. Davies successfully obtained an unprecedented declaration from the Tax Court on a pretrial motion that the taxpayer was a compellable witness in his own tax trial. This finding paves the way for the taxpayer to rely on the protections afforded by the Canadian Charter of Rights and Freedoms and the Evidence Act (Canada) which protect against incriminating himself in the tax trial for the purposes of any subsequent criminal prosecution (in this case, in respect of any potential polygamy charges).

Court: Tax Court of Canada
Counsel: Davies, David for the Appellant

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Strother et al. v. The Queen

2011 DTC 1199

[Case Summary](#)

Mr. Davies successfully argued the taxpayer's motion to delete portions of the Crown's pleadings as being scandalous, frivolous and vexatious. The appellant was a partner in a syndicated film tax shelter structure.

Court: Tax Court of Canada

Counsel: Davies, David for the Appellant

Sentinel Hill Productions (1999) Corporation, in its capacity as designated member of Sentinel Hill 1999 Master Limited Partnership et al. v. The Queen

2008 DTC 2544

[Case Summary](#)

Mr. Davies successfully defended the taxpayer against the Crown's motion to strike those portions of the taxpayer's pleadings alleging that the Canada Revenue Agency had not honoured an Advance Income Tax Ruling issued in the context of a partnership tax shelter structure.

Court: Tax Court of Canada

Counsel: Davies, David for the Appellant

Sentinel Hill No. 29 Limited Partnership et al. v. Attorney General of Canada

2008 DTC 6568

[Case Summary](#)

Mr. Davies sought repayment of overpaid withholding taxes on behalf of the taxpayer, on the basis that the government had been unjustly enriched by retaining tax payments to which it was not entitled. The taxpayer had withheld monies paid to non-residents of Canada under a "gross-up" clause and remitted those funds to the CRA. The taxpayer sought reimbursement since the non-resident payee (having previously been indemnified by the taxpayer) was indifferent as to whether the funds were remitted or not.

Court: Ontario Court of Appeal

Counsel: Davies, David for the Appellants

Aujla v. The Queen

2008 GTC 136

[Case Summary](#)

Mr. Davies successfully argued that the taxpayer was not liable for a director's liability claim under the GST legislation (the Excise Tax Act). The taxpayer had ceased to be a director when the company was dissolved for failing to file corporate returns, and was therefore entitled to the benefit of the two-year limitation period after ceasing to be a director.

Court: Federal Court of Appeal

Counsel: Davies, David for the Appellant

Howe et al. v. The Queen

2004 DTC 3619

[Case Summary](#)

Mr. Davies successfully argued that the taxpayers' losses claimed in a structured partnership tax shelter structure were allowable. The Court rejected the Crown's general anti-avoidance rule (GAAR) argument, and concluded that the losses were fully deductible as claimed.

Court: Tax Court of Canada

Counsel: Davies, David for the Appellant

CIT Financial Ltd. v. The Queen

2004 DTC 6573

[Case Summary](#)

The taxpayer sought to sustain deductions arising from a structured finance transaction involving deductions for capital cost allowance on computer software imported into Canada.

Court: Federal Court of Appeal

Counsel: Davies, David for the Appellant

Brown v. The Queen

2003 DTC 5298

[Case Summary](#)

This was the first computer software tax shelter partnership to proceed to Tax Court. The Crown had challenged the capital cost allowance (CCA) deductions on numerous bases. The taxpayer successfully challenged several of the bases of assessment on which the CRA had relied, leading to partial success.

Court: Federal Court of Appeal

Counsel: Davies, David for the Appellant

Blackmore v. The Queen

2012 DTC 5020

[Case Summary](#)

Mr. Davies successfully argued that an award of costs made by the Tax Court against the taxpayer was excessive, and, on the evidence, unfounded.

Court: Federal Court of Appeal

Counsel: Davies, David for the Appellant

Hsu v. The Queen

2001 DTC 5459

[Case Summary](#)

One of the leading “net worth” decisions on the taxability of imputed income.

Court: Federal Court of Appeal

Counsel: Davies, David for the Appellant

Argus Holdings Limited v. The Queen

2000 DTC 6681

99 DTC 597

[Case Summary](#)

The taxpayer was successful in asserting that initiation fees were, in law, earned in statute-barred years rather than the year of assessment, thereby avoiding tax on those fees.

Court: Federal Court of Appeal

Counsel: Davies, David for the Appellant

Sandhu v. The Queen

98 DTC 1889

[Case Summary](#)

Mr. Davies successfully argued that the taxpayers were not subject to tax in respect of shareholders' benefits assessed against them on transfer of a partnership interest to a corporation.

Court: Tax Court of Canada

Counsel: Davies, David for the Appellant

Kewal Sidhu v. The Queen

2004 DTC 2540

[Case Summary](#)

Issue: principal residence exemption, capital gains exemption, and penalties assessed on the associated gains.

Court: Tax Court of Canada

Counsel: Davies, David for the Appellant