



Federal Court of Appeal Confirms You Need a Business to Claim Business Expenses

June 2022 Tax Alert

In a recent decision of the Federal Court of Appeal, the Court confirmed that a legitimate business is required to claim business expenses. As such, entrepreneurs and start-ups should be mindful to ensure that they have taken sufficient steps to start their business before they commence claiming business expenses.

In the matter of *Vesuna v. Canada*, the taxpayer purchased land to start a seasonal business, selling fruits and vegetables. For the business to work, he needed road access to his land. To achieve the road access, he determined the best course of action would be to commence litigation against the government and the owners of an adjacent property. The lawsuit was unsuccessful and the taxpayer's business never got off the ground. Nevertheless, the taxpayer still claimed, as a business expense, his litigation costs. The Canada Revenue Agency denied the expenses, on the basis that there needs to be a business to have business expenses. The Tax Court of Canada agreed with the Minister and confirmed the assessment. The taxpayer appealed to the Federal Court of Appeal, which dismissed the appeal.

In its decision, the Federal Court of Appeal focused on the fact that the taxpayer only had the intention of starting a business. The taxpayer had not yet taken steps such as having a business plan, entering into agreements with local farmers to obtain their produce, getting electricity for the property, and ensuring sufficient start-up capital. The Federal Court of Appeal found it

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was clear the taxpayer had not yet commenced operating his business and had no means to commence operating his business. Given the above, it is important to properly determine if your business has been sufficiently established before claiming business expenses. This can include ensuring you have documentation, such as a business plan and financing agreements, to confirm that your business is more than an idea. If you are assessed by the Minister and denied business expense deductions, the burden is on you to prove the expenses were incurred further to a business.

For more information or to discuss any current tax disputes regarding valid business expenses, please contact [our firm](#).

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