

Calculating the Alternate Minimum Tax

Calculating the Alternate Minimum Tax - Consideration of losses

Gelinas v The Queen, [2013 TCC 250](#)

At issue was whether the amount of a particular loss ought to be added to taxable income of the taxpayer for purposes of calculating the alternate minimum tax ("AMT").

The court held that for purposes of calculating the AMT, where losses of past years are considered, interest and carrying charges to the extent contributing to (irrespective of whether or not they are the cause of) a loss must be included in the adjusted taxable income of the taxpayer.

FACTS

The taxpayer's accountant, in calculating the AMT using [Form T691](#), considered whether to include the amount as a loss "attributable to carrying charges or interest". The accountant concluded that the loss in the past year was not due to carrying charges or interest, but due to an exceptional expenditure, as the carrying charges and interest in that year were comparable to other years.

The MNR reassessed and included the amount of the loss in taxable income for purposes of the AMT.

ANALYSIS

The Court noted that despite the guidance offered in the CRA materials and instructions, it is the provisions of the ITA that govern.

The provisions containing the formula for the AMT are found in section 127.51 of the *Income Tax Act*, and requires the consideration on the "individual's adjusted taxable income" as determined under section 127.52. Section 127.52 requires the calculation of a taxpayer's income for a taxation year computed in light of a number of assumptions.

The assumptions include a readjustment of previous years' CCA and interest expense deductions, as well as certain preceding years' losses. Specifically, paragraph 127.52(1)(b) limits deductions for amortization and interest paid such that these amounts cannot create a loss - the loss amount is added back into taxable income. The adjustment does not require that the amortization or interest expense be the cause of the loss. If a loss is incurred and the deduction of interest contributed to that loss, then the amount must be added back in.

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