

## St Arnaud v Canada, 2013 FCA 88

### Valuation of Shares in the Hands of Innocent Victims in Cases of Fraud

*St Arnaud v Canada*, [2013 FCA 88](#)

This case shows the logical and common sense application of law to facts by the FCA.

The appellants were innocent victims of fraud whereby they lost significant amounts (and in one case the entire amount) of their retirement savings. They were induced to purchase or cause to be purchased by their RRSPs or RRIFs shares in two corporations, but the corporations were holding companies with no assets and no active business. The CRA reassessed on the basis that the shares in this case were worth Nil at all times, and that the acquisition of the shares by the RRIFs and RRSPs occurred at FMV with the result that all amounts were included in income of the Appellants.

The FCA dealt with the assumption by the MNR that the RRIFs and RRSPs has in fact acquired the shares in question. The Court stated that the shares issued by the two corporations would have a purported value of 2.3 Million if the cash would have been received by the corporations or the purpose of issuing shares. Thus, either the shares were not valued at Nil if the corporation is considered to have received those funds on its own account, OR the corporation was acting as a mere conduit or agent for the person(s) who absconded with the funds in which case the shares could not have been issued by the corporations (corporate law result). In either case the assumption by the MNR was rebutted and the assessments were vacated.

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