



Ottawa, Wednesday, January 29, 1992

**Appeal No. AP-90-194**

IN THE MATTER OF an appeal heard on October 23, 1991, under section 81.19 of the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

AND IN THE MATTER OF a decision of the Minister of National Revenue dated November 6, 1990, with respect to a notice of objection served under section 81.15 the *Excise Tax Act*.

**BETWEEN**

**TJERK DE JONG**

**Appellant**

**AND**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is dismissed.

Arthur B. Trudeau  
Arthur B. Trudeau  
Presiding Member

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Member

W. Roy Hines  
W. Roy Hines  
Member

Robert J. Martin  
Robert J. Martin  
Secretary



Ottawa, Wednesday, January 29, 1992

**Appeal No. AP-90-203**

IN THE MATTER OF an appeal heard on October 23, 1991, under section 81.19 of the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

AND IN THE MATTER OF a decision of the Minister of National Revenue dated November 6, 1990, with respect to a notice of objection served under section 81.15 the *Excise Tax Act*.

**BETWEEN**

**TJERK DE JONG**

**Appellant**

**AND**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is dismissed.

Arthur B. Trudeau  
Arthur B. Trudeau  
Presiding Member

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Member

W. Roy Hines  
W. Roy Hines  
Member

Robert J. Martin  
Robert J. Martin  
Secretary

*UNOFFICIAL SUMMARY*

**Appeal Nos. AP-90-194 and AP-90-203**

**TJERK DE JONG**

**Appellant**

**and**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

*The appellant is a beekeeper in Alberta. For the period from January 1, 1987, to December 31, 1988, the appellant received a price reduction for fuel he purchased for his vehicle, because he held a sales tax bulk permit.*

*The issues before the Tribunal were whether the appellant was entitled to the rebate in question and whether a "beekeeper" should be distinguished from a "farmer" regarding the application of the authorized formula developed to reduce the paper burden of keeping detailed records for on/off-highway use.*

**HELD:** *The appeals are dismissed. The appellant, in both appeals did not substantiate his objection that the assessments were incorrect.*

*Place of Hearing: Calgary, Alberta*  
*Date of Hearing: October 23, 1991*  
*Date of Decisions: January 29, 1992*

*Tribunal Members: Arthur B. Trudeau, Presiding Member*  
*Sidney A. Fraleigh, Member*  
*W. Roy Hines, Member*

*Legal Services for the Tribunal: France Deshaies*

*Clerk of the Tribunal: Janet Rumball*

*Appearance: Howard Baker, for the respondent*

**Appeal Nos. AP-90-194 and AP-90-203**

**TJERK DE JONG**

**Appellant**

**and**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member  
SIDNEY A. FRALEIGH, Member  
W. ROY HINES, Member

**REASONS FOR DECISIONS**

These are two appeals under section 81.19 of the *Excise Tax Act* (the Act).<sup>1</sup>

Appeal No. AP-90-203 is made from a notice of decision of the Minister of National Revenue (the Minister), dated November 6, 1990, confirming Notice of Determination (rebate) number ALB 03551, under which an amount of \$733.26, plus any interest, was approved to be applied against the appellant's outstanding balance of taxes, penalties and interest due under the Act at that time.

Appeal No. AP-90-194 is from the Minister's notice of decision, dated November 6, 1990, confirming the notice of assessment dated June 12, 1990, under which the appellant is liable under the Act, by way of taxes, interest and penalty, for a sum of \$3,484.85.

The facts on file can be summarized as follows. The appellant is a beekeeper in Alberta. The fuel being used in his vehicle is dyed fuel ("purple" gas or "purple" diesel). For the period from January 1, 1987, to December 31, 1988, the appellant received a rebate in the amount of \$2,850.46 (of which \$327.23 was allowed) for all the fuel he purchased, because he held a sales tax bulk permit.

The issues before the Tribunal are whether the appellant was entitled to the rebate in question and whether a "beekeeper" should be distinguished from a "farmer" regarding the application of the authorized formula developed to reduce the paper burden of keeping detailed records for on/off-highway use.

At the hearing, the respondent explained that, in the matter of Appeal No. AP-90-203, a satisfactory resolution of the issue was reached at the regional level and the appellant had withdrawn his objection on October 24, 1990. The respondent's notice of decision, confirming the notice of assessment dated June 12, 1990, ratifies that statement. However, on February 4, 1991, the Tribunal received the appellant's notices of appeal with the documents related to the Minister's two notices of decision dated November 6, 1990. Therefore, two different appeals were before the Tribunal.

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1. R.S.C., 1985, c. E-15 as amended.

In both appeals, the Tribunal finds that the onus was on the appellant to prove that the assessments were incorrect.<sup>2</sup> Since the appellant has not substantiated his objection either in writing or orally at the hearing, the appeals must fail. Consequently, the appeals are dismissed.

Arthur B. Trudeau  
Arthur B. Trudeau  
Presiding Member

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Member

W. Roy Hines  
W. Roy Hines  
Member

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2. *Roderick W.S. Johnston v. Minister of National Revenue*, [1948] S.C.R. 486.