

INCOME TAX

INCOME CALCULATION

Income or Capital Gain

Appeal from Tax Court of Canada decision (2017 TCC 62) concluding that value of parking pass provided to appellant by employer benefit under *Income Tax Act*, R.S.C., 1985 (5th Supp.), c. 1, s. 6(1)(a) — Appellant, flight attendant operating out of Calgary International Airport — While at airport, making use of employer-provided parking pass — Minister of National Revenue reassessing appellant to include value of parking pass in income — Whether employer-provided parking taxable benefit — Fundamental inquiry under s. 6(1)(a) whether employer conferring something of economic value on employee — Authorities considered confirming Act, s. 6(1)(a) capturing reimbursement or subsidization of personal employee costs — Fact employer having business purpose in conferring something of economic value on employees not necessarily taking it outside s. 6(1)(a) — “Personal” nature of commuting costs well-established in case law — Remaining personal even if employee must, as practical matter, pay for parking as result of location of work or impracticability of using public transit — Save in exceptional circumstances, parking paid for by employer representing economic benefit to employee — Exceptions turning on such factors as relationship between expense and employee’s duties or conditions of employee’s work, employer’s purpose in paying — Here, appellant not required to use vehicle in course of duties — Cost of parking at airport consequence of appellant’s personal choices, not bound up in employment duties or in nature of work as flight attendant — Appeal dismissed.

SMITH V. CANADA (A-161-17, 2019 FCA 173, Laskin J.A., reasons for judgment dated June 10, 2019, 23 pp.)