

Leasing company's battle with Revenue Canada

Inching toward resolution

by Scott Smith

HAMILTON -- A gruelling ten year wrangle between a Six Nations-based employee leasing company and Revenue Canada over whether or not off-reserve Aboriginal workers can benefit from the same income-tax exemption under section 87 of the Indian Act as their on-reserve counterparts, is inching towards a finale.

Roger Obonsawin, an Abanaki businessman and status Indian, along with partner Ljuba Irwin, also a status Indian, in 1987 pioneered a unique -- and some might say cunning --- new employment concept that has given the federal government and Revenue Canada fits ever since.

The pair formed OI Employee Leasing through their parent company, The OI Group, in 1987, thinking they could successfully pair a US concept of leasing employees to third party companies together with a Canadian income tax exemption benefitting native peoples.

Four years earlier, in 1983, the Supreme Court had liberally interpreted the right of a status Indian to work off the reserve and not pay income tax, as long as the head office of the company was located on a reserve.

In a decision known as Nowegijick, the court ruled in favour of BC status Indian living on reserve and working for a logging company also located on the reserve. Periodically, Mr. Nowegijick's logging activities took him off the reserve to cut, and Revenue Canada told him he

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