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Income Tax Determinations
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BUREAU OF LAW

MEMORANDUM

Moss, Albert

TO: Commissioners Murphy, Palestin and Macduff

FROM: Vincent P. Molineaux, Hearing Officer

SUBJECT: Albert Moss, petition for refund of personal income taxes under Article 22 of the Tax Law for the years 1960, 1961 and 1962

A hearing with reference to the above matter was held before me at 80 Centre Street, New York, N. Y. on September 23, 1964. The appearances and the evidence produced were as shown in the stenographic minutes and exhibits submitted herewith.

The only alleged basis for petitioner's claim for refund is that the failure of the Department of Education to provide him with Visual Rehabilitation Assistance has compelled him to his detriment to continue his employment with the City of New York thus denying him his rights as a citizen, and that he should not therefore be required to pay a State income tax.

Petitioner did not claim that he did not receive the income upon which the tax is based (page 9 of formal hearing minutes) and stated that he had no claim against the accuracy or liability for State income tax (page 8 of formal hearing minutes) in view of which I have prepared the accompanying proposed determination denying petitioner's application for refund.

/s/ VINCENT P. MOLINEAUX
Hearing Officer

VPM:ca
Enc.

March 8, 1965

/s/ M. SCHAPIRO
Approved

/s/ SAUL HECKELMAN
Approved

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE PETITION

OF

ALBERT MOSS

FOR REFUND OF PERSONAL INCOME TAXES UNDER ARTICLE 22 OF THE TAX LAW FOR THE YEARS 1960, 1961 AND 1962

Albert Moss the taxpayer herein having filed a petition for refund of personal income taxes under Article 22 of the Tax Law for the years 1960, 1961 and 1962 (File No. 2-1873015 dated December 14, 1963), and a hearing having been held in connection therewith at the office of the State Tax Commission, 80 Centre Street, New York, N. Y. on September 23, 1964 before Vincent P. Molineaux, Hearing Officer of the Department of Taxation and Finance at which hearing the taxpayer appeared personally and testified, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That a claim for refund for the taxable years 1960, 1961 and 1962 for the amounts of $13.00, $36.00, and $38.10, respectively, was denied September 2, 1963.

(2) That a petition for refund of personal income tax for the years 1960, 1961 and 1962 was filed December 17, 1962.

(3) That the ground upon which a refund is claimed is as follows:

> "The Division of Visual Rehabilitation State Department of Education at Albany has failed to process application made for such assistance in

1959 and has, therefore, ostensibly denied my legal right to such public state aid due to serious visual insufficiency of the oculus sinister (20/400--left optic). Such illegal action, which I cannot contest in a court of appropriate jurisdiction due to financial incapacity to engage counsel, is in my opinion tantamount to deprivation of New York state citizenship. Under these existing circumstances, I do now hereby challenge the legal right of the State of New York to continue assessing my municipal salary for personal state income tax."

(4) That petitioner's evidence at the hearing recited no basis for refund.

Upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

DECIDES:

(A) That petitioner has presented no basis for a refund.

(B) That the petition is hereby denied.

DATED: Albany, New York on this 15th day of March , 1986.

STATE TAX COMMISSION

/s/ JOSEPH H. MURPHY
President

/s/ IRA J. PALESTIN
Commissioner

/s/ JAMES R. MACDUFF
Commissioner