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Income Tax Determination A-2

*Meeker, Gladys L. and
Kenneth L.*

See also:

*Unincorp. Bus. Tax
Determinations A-2*

*D & M Motive
Parts Co.*

(Memo dated 4/10/67)

**STATE OF NEW YORK
STATE TAX COMMISSION**

**IN THE MATTER OF THE APPLICATION
OF**

KENNETH L. AND GLADYS L. MEERER

**FOR REVISION OR REFUND OF PERSONAL
INCOME TAX UNDER ARTICLE 16 OF THE
TAX LAW FOR THE YEAR 1959**

The taxpayers, Kenneth L. and Gladys L. Meeker, having filed an application for revision or refund of personal income tax under Article 16 of the Tax Law for the year 1959, and a hearing having been scheduled thereon at the office of the State Tax Commission, 80 Centre Street, New York, New York, for the first day of December, 1966, and no appearance having been made on behalf of the taxpayers, and the documents on file having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers filed a New York State resident income tax return for the year 1959 and the amount of tax shown to be due was paid.

(2) That on or about March 1, 1959 an award in the amount of \$16,500 was made to D & M Motive Parts Company, of which the taxpayer Kenneth L. Meeker is a 50% partner, by the City of New York for land, buildings, fixtures and improvements acquired by condemnation, and replacement property was acquired by the partnership for \$9,397.06 leaving a balance of \$7,102.64 which was not expended for replacement property.

(3) That Assessment B 832837 was issued January 25, 1961 assessing personal income tax in the amount of \$123.78 based upon the taxpayer's 50% share in the balance of the award not expended

in the acquisition of other property similar or related in service to that which was condemned.

(4) That application for revision of Assessment B 832837 was filed August 28, 1961, was denied November 30, 1961 and demand for hearing was filed with the Commission January 5, 1962.

(5) That the application is based upon deduction of the adjusted cost of the condemned property before deduction of the cost of replacement property which is not authorized under Section 37 of the Tax Law.

(6) That a hearing was scheduled for December 1, 1966 at 3 o'clock p.m. at 80 Centre Street, New York, New York and taxpayer was duly notified thereof.

(7) That taxpayer failed to appear at the said hearing or to present evidence or arguments to support the application for revision.

Based upon the foregoing findings and all of the evidence in the file, the State Tax Commission hereby

DETERMINES:

(A) That the portion of the condemnation award in the sum of \$7,102.64 not expended on the acquisition of similar or related in use property was correctly recognized as business income.

(B) That taxpayer's share of \$3,551.32 in the portion of the condemnation award not expended on the acquisition of similar or related in use property is subject to personal income tax.

(C) That Assessment B 832837 was correctly issued.

(D) That the denial of the application for revision is confirmed

AND IT IS SO ORDERED.

Dated: Albany, New York, on the 3rd day of March, 1967.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

PRESIDENT

/s/

JAMES R. MACDUFF

COMMISSIONER

/s/

WALTER MACLYN CONLON

COMMISSIONER