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Meyer, G. Howland

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION

OF

G. HOWLAND MEYER

FOR REVISION OR REFUND OF PERSONAL
INCOME TAX UNDER ARTICLE 16 OF THE
TAX LAW FOR THE YEAR 1957

See also:

Unincorp. Business
Tax Determin. A-2
Bayside Golf Company
(6/23/67 - 9/22/67)

The taxpayer, G. Howland Meyer, having filed an application for revision or refund of personal income tax under Article 16 of the Tax Law for the year 1957 and a hearing having been held at the office of the State Tax Commission, 80 Centre Street, New York, New York on the 25th day of May 1963 before Vincent P. Molinoux, Hearing Officer of the Department of Taxation and Finance and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That taxpayer filed a resident income tax return for the year 1957 on which the amount of tax shown to be due was paid.

(2) That on October 6, 1961 the State Tax Commission issued Assessment No. B983017 in the amount of \$6,071.19 on the ground that real property operated as a golf course and sold in installments for \$3,000,000 constituted partnership income under section 386 of the Tax Law.

(3) The property with the exception of one small parcel approximately 250' by 250' (taxpayer's exhibit E) acquired in 1931 had been in taxpayer's family since 1887. Bayside Golf Company was formed in 1931 and took title to the property and operated a public golf course. All of the shares of the corporation were held by the father of the taxpayer in trust for him and his sister and brothers until the said father's death in 1950. At

that time, the trust ended and the shares became the property of the taxpayer and his brothers and sister.

(4) In May 1932 the real property was transferred by the corporation to the taxpayer and his brothers and sister as tenants in common (taxpayer's exhibits N and O). The corporation was dissolved in June 1932 (taxpayer's exhibit N). Steps were taken to dispose of the property (taxpayer's exhibit Q) and efforts were made to have the City Planning Commission rescind the area to permit the construction of garden apartments and thus improve the salability of the tract.

(5) A contract for the sale of the land by the taxpayer and his brothers and sister to Homan Corp. was executed in March 1936.

(6) In the meantime the taxpayer, his brothers and sister, on April 1, 1932 executed a partnership agreement, forming Bayside Golf Company, to continue operation of the golf course pending sale of the property (taxpayer's exhibit C).

(7) The partnership agreement (taxpayer's exhibit C) recites that the partners each have an undivided interest in the property and that each transfers his share of the property to the partnership to operate a golf course. The agreement does not fulfill the requirements of a conveyance of real property and the agreement is prior to the date of the deed of the property from the corporation to taxpayer and his brothers and sister and dissolution of the corporation. The agreement was never recorded as a deed.

Based upon the foregoing findings and the evidence presented herein, the State Tax Commission hereby

DETERMINES:

(A) That the sale of the real property was a sale of property used in the business of the partnership.

(B) That income from the sale was income of the partnership.

(C) That Assessment No. B983017 for personal income tax is correct and the denial of the application for revision is confirmed.

Dated: Albany, New York this 22nd day of September, 1967.

STATE TAX COMMISSION

/s/ JOSEPH H. MURPHY
~~Commissioner~~

/s/ JAMES R. MACDUFFE
~~Commissioner~~

/s/ WALTER MACLYN CONLON
~~Commissioner~~