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## BUREAU OF LAW

## MEMORANDUM

*Income Tax Determination*  
4-2  
*Gallagher, Katherine M.*

TO: **State Tax Commission**

FROM: **Salomon Sies, Hearing Officer**

SUBJECT: **KATHERINE M. GALLAGHER**  
**1951 Assessment No. AA-836402**  
**Article 16**

A formal hearing was held in the above matter at the New York City Office.

The issue involved herein is the disallowance of deductions for entertainment and business expenses.

On her income tax return for 1951, the taxpayer claimed a deduction of \$1,830 for entertainment expense and a further deduction of \$1,823, for business expense in connection with a former business conducted by her. On March 10, 1953, an additional assessment was made against the taxpayer in the amount of \$156.63, disallowing the aforementioned deductions in their entirety for failure to substantiate the same.

At a preliminary hearing the taxpayer's representative contended that the United States Tax Court had allowed a portion of the expenses claimed by the taxpayer on her return for the year 1951. On November 10, 1959, a partial cancellation of the assessment was issued in the amount of \$88.00 reducing the additional assessment to \$68.61. The assessment was modified by allowing entertainment and business expense to the extent of \$730.00 and \$900.00, respectively, and disallowing the balance of said deductions.

The taxpayer in her application for revision claimed that she was required to pay wages in connection with a former business in the amount of \$1,823. However, on her income tax return she only claimed \$873.00 paid as wages. The conferee after a preliminary hearing allowed her \$900 which is in excess of the amount claimed on the return.

The taxpayer was unable to submit any proof or evidence to substantiate the entertainment and business expenses disallowed.

I am, therefore, of the opinion that the assessment, as modified, should be sustained.

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For the reasons stated above, I recommend that the determination of the Tax Commission in this matter be substantially in the form submitted herewith.

~~SOLOMON SIES~~  
~~Deputy Chief~~

JS

SS:dv/sc

April 21, 1969

Sent to Comm. 5/5/69

**STATE OF NEW YORK**  
**STATE TAX COMMISSION**

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**IN THE MATTER OF THE APPLICATION**

**OF**

**KATHERINE M. GALLAGHER**

**FOR REVISION OR REFUND OF PERSONAL  
INCOME TAXES UNDER ARTICLE 16 OF  
THE TAX LAW FOR THE YEAR 1951**

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The taxpayer, Katherine M. Gallagher, having filed an application for revision or refund of personal income taxes and a hearing having been held in connection therewith at the office of the State Tax Commission, 80 Centre Street, New York City, N. Y. on the 21st day of May, 1964 before Solomon Sies, Hearing Officer of the Department of Taxation and Finance, at which hearing the taxpayer appeared personally and was represented by Jerome C. Lewis, Esq., 490 West End Avenue, New York City, N. Y. and the matter having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer on her personal income tax return for the year 1951 claimed a deduction of \$1,250.00 for entertainment expense and a further deduction of \$1,825.00 for business expenses in connection with a former business conducted by her; that on March 10, 1955, the Department of Taxation and Finance made an additional assessment against the taxpayer (Assessment No. AA-836402) in the amount of \$156.63, disallowing the aforementioned deductions in their entirety for failure to substantiate the same.

(2) That, on November 10, 1959, after a preliminary hearing, the Department of Taxation and Finance cancelled a portion of the assessment herein to the extent of \$88.02 and reduced the assessment from \$156.83 to \$68.61; that said assessment was modified by allowing entertainment expense to the extent of \$730.00 and business expenses to the extent of \$900.00 and disallowing the balance of the aforementioned deductions claimed.

(3) That in her application for revision the taxpayer claimed that the deduction of \$1,825 for business expenses was justified since she was compelled to pay wages in that amount in connection with a former business conducted by her; that on her return she indicated wages paid in the amount of \$875.00; that the allowance of \$900.00 for business expenses as more fully set forth in Finding (2) above is in excess of the amount claimed on the return.

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

**DETERMINES:**

(A) That the assessment (Assessment No. AA-836402 for the year 1951), as modified and reduced from \$156.63 to \$68.61 is correct; that said assessment does not include any tax or other charge which could not have been lawfully demanded and that the taxpayer's application for revision or refund with respect to said assessment, as modified, be and the same is hereby denied.

**DATED:** Albany, New York on the 30th day of June , 1969.

**STATE TAX COMMISSION**

Joseph D. Murphy  
PRESIDENT

Bruce Hanley  
COMMISSIONER

Milton Krum  
COMMISSIONER