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## BUREAU OF LAW

## MEMORANDUM

*Income Tax Determination*  
A-2  
*Greeley, Charles M.*

TO: Commissioners Murphy, Palestine & Macduff  
FROM: Solomon Sies, Hearing Officer  
SUBJECT: CHARLES M. GREELEY

1953 Assessment No. B-540901  
1954 Assessment No. B-540902  
1955 Assessment No. B-540903  
1956 Assessment No. B-540904

**Article 16****Formal Hearing**

On December 29, 1964, I sent a notice of hearing to the taxpayer scheduling a formal hearing in the above matter for February 1, 1965, at 9:30 o'clock A. M. and in addition, wrote him that in view of the repeated requests for adjournments, no further adjournments would be granted and in the event of his default, a determination would be made upon the record as it is presently constituted. The taxpayer defaulted in appearance at said scheduled hearing.

The taxpayer is a non-resident. He is the owner of business property, which also contains several apartments, located in Buffalo, N. Y. The property is managed by a renting agent in Buffalo. The taxpayer has indicated in correspondence to the Income Tax Bureau that he received from the renting agent a monthly check of about \$500.00 which is the net income after all deductions including agent's commissions. The gross rental of the property appears to be about \$12,000.00 a year and it appears that the expenses, repairs, taxes, interest and depreciation amount to approximately \$6,000.00 a year. On his returns for the years in question, the taxpayer reported a net amount from the rentals that he received amounting to between \$5,300.00 to about \$6,500.00 and further itemized deductions on his returns which amounted to more than the income reported, so that there was no tax due. The taxpayer included in the deductions charitable contributions, interest on loan, automobile expenses, county taxes, tax on hotel room and depreciation on the Buffalo property amounting to \$3,150.00.

The taxpayer has failed to establish that the deductions claimed by him were not previously included in reporting his net income from the rental of the property. The deductions claimed by the taxpayer, including the charitable contributions and county, city and hotel taxes where he was living in Ohio and in Florida as a non-resident, were not proper and not in accordance with subdivision 11, Section 360 of the Tax Law. I am, therefore, of the opinion that the assessments should be sustained and the taxpayer's applications for revision or refund be denied.

TO: Commissioners Murphy, Palestin & Macduff

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RE: CHARLES M. GREELEY

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

APR 13 1965

SOLOMON SIES

Hearing Officer

/s/

M. SCHAPIRO

Approved

/s/

E. H. BEST

Approved

STATE OF NEW YORK  
STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATIONS

OF

CHARLES M. GREELEY

FOR REVISION OR REFUND OF PERSONAL INCOME  
TAXES UNDER ARTICLE 16 OF THE TAX LAW FOR  
THE YEARS 1953, 1954, 1955 AND 1956.  
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Charles M. Greeley, the taxpayer herein, having filed applications for revision or refund of personal income taxes under Article 16 of the Tax Law for the years 1953, 1954, 1955 and 1956 and a notice of hearing having been mailed to the taxpayer on December 29, 1964 scheduling a hearing at 80 Centre Street, New York City, N.Y. for February 1, 1965 at 9:30 o'clock A. M. before Solomon Dies, Hearing Officer of the Department of Taxation and Finance and the taxpayer having defaulted in appearance thereat and the matter having been duly examined and considered,

The State Tax Commission hereby finds;

(1) That the taxpayer is a non-resident and owns rental property located in Buffalo, N. Y.; that the taxpayer filed non-resident New York State income tax returns for the years 1953, 1954, 1955 and 1956 in which he reported net income from the aforementioned rental property amounting to between \$5,000.00 and \$6,000.00 per year claiming thereon that he usually draws \$500.00 per month from the bank in agent in Buffalo, N. Y.; that the taxpayer reported on his returns certain deductions amounting to approximately \$6,000.00 a year and claimed no tax due; that such the deductions claimed by the taxpayer were included charitable contributions, interest on loan, automobile expenses and depreciation on the Buffalo property amounting to \$3,150.00.

(2) That on February 3, 1959, the Department of Taxation and Finance made additional assessments for the years 1953, 1954, 1955 and 1956 (Assessment Nos. E-540901, E-540902, E-540903 and E-

540904, respectively), adjusting the taxpayer's net income to \$5,500.00 a year; that accordingly, the adjusted normal tax due was computed in the sums of \$126.00, \$140.00, \$121.00, and \$121.00 for the years 1953, 1954, 1955 and 1956, respectively; that the taxpayer has failed to establish that his deduction of depreciation on the property was not previously deducted from gross income in order to arrive at the net income reported by the taxpayer; that the taxpayer further has failed to substantiate other deductions listed including interest on loan or automobile expenses, and has failed to show that the same were not personal expenses or that they were expenses in connection with the operation of the real property; that the taxpayer has further failed to show that such expenses were not previously deducted by the taxpayer in reporting his net income.

(3) That the personal deductions claimed by the taxpayer including charitable contributions as a non-resident were not proper and not in accordance with subdivision 11, section 360 of the Tax Law.

Based upon the foregoing findings, the State Tax Commission hereby

**DETERMINES:**

(A) That, accordingly, the assessments (Assessment Nos. E-540901, E-540902, E-540903 and E-540904) for the years 1953, 1954, 1955 and 1956, respectively, are correct; that said assessments do not include any tax or other charge which could not have been lawfully demanded and that the taxpayer's applications for revision or refund be and the same are hereby denied.

DATED: Albany, N.Y. on the 7th day of September, 1965.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY  
Commissioner

Commissioner

/s/

JAMES R. MACDUFF  
Commissioner