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*Income Tax Determinations*

BUREAU OF LAW

A-2  
*Neiman, Herman*

MEMORANDUM

TO: **Commissioners Murphy and Macduff**

FROM: **Francis V. Dow, Hearing Officer**

SUBJECT: **In the matter of the application of Herman Neiman for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1957**

A hearing with reference to the above matter was scheduled before me at 80 Centre Street, New York, New York, on October 6, 1966. The taxpayer defaulted in appearance.

The question involved herein is whether the taxpayer included all of his income in his tax return for the year 1957.

The taxpayer's New York tax return reported income in the sum of \$3,215.00. His exemptions exceeded his reported income. The taxpayer's 1957 Federal return showed that he had earnings totaling \$5,559.90. The Internal Revenue Service on audit of his return, allowed deductions in the sum of \$1,439.20. The notice of additional assessment (Assessment No. IF 8-9797) allowed the taxpayer the maximum optional deduction of \$500.00. The taxpayer did not take the standard deduction nor list his deductions. I am of the opinion that the taxpayer's application should be partially granted to include his specific deductions as allowed on the Federal audit, since he made no election under section 360(18) of the Tax Law, and to deny it otherwise.

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

/s/

FRANCIS V. DOW

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**Hearing Officer**

December 12, 1966

FVD:cp  
Enc.

(Dec. 16, 1966)

/s/

MARTIN SCHAPIRO

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**Approved**

/s/

SAUL HECKELMAN

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**Approved**

**STATE OF NEW YORK  
STATE TAX COMMISSION**

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**IN THE MATTER OF THE APPLICATION**

**OF**

**HERMAN HEIMAN**

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

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Herman Heiman, having filed an application for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1957, and a notice of hearing having been mailed to the taxpayer on September 7, 1966, scheduling a formal hearing to be held at the office of the State Tax Commission at 80 Centre Street, New York, New York on October 6, 1966 at 9:00 A.M. before Francis V. Dow, Hearing Officer, of the Department of Taxation and Finance, and the taxpayer having failed to appear at such hearing and his default having been duly noted, the matter having been examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer filed a New York State resident tax return for the year 1957 on which he reported total income of \$3,215.00; that a notice of additional assessment of income taxes (Assessment No. NY 849797) was issued on March 29, 1961, adding to his total income \$2,344.90 which was earned by the taxpayer during 1957, and imposed additional tax in the sum of \$42.80; that the taxpayer reported earnings totalling \$5,599.90 on his 1957 Federal income tax return.

(2) That the Internal Revenue Service on an audit of his 1957 Federal tax return allowed the taxpayer a deduction in the sum of \$1,439.20; that the taxpayer did not take the maximum standard deduction on his New York State tax return nor did he list his allowable specific deductions which totaled \$1,439.20.

Based upon the foregoing findings, the State Tax Commission hereby

**DETERMINES:**

(A) That in 1957 the taxpayer's total income was \$5,579.70 as he reported in his Federal tax return; that the taxpayer is allowed his specific deductions in the sum of \$1,439.20 since he did not elect to deduct from his earnings the maximum standard deduction; that after adding his personal exemption of \$3,300.00 the taxpayer had a taxable income of \$800.70, and that his 1957 income tax is \$16.41.

(B) That the additional tax assessed against the taxpayer (Assessment No. 17 849797) is hereby reduced from \$42.00 to \$16.41 and the balance of such assessment in the amount of \$25.59 is hereby cancelled; that to the extent that the assessment is herein modified, the assessment is correct and hereby affirmed, and the taxpayer's application for revision or refund with respect thereto be and the same is hereby denied.

Dated: Albany, New York, on the 27th day of December, 1966.

**STATE TAX COMMISSION**

/s/

JOSEPH H. MURPHY

**PRESIDENT**

/s/

JAMES R. MACDUFF

**COMMISSIONER**