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## BUREAU OF LAW

## MEMORANDUM

*Income Tax Determinations**A-2**Dalatri, Robert*

TO: Commissioners Murphy, Macduff and Conlon

FROM: Alfred Rubinstein, Hearing Officer

SUBJECT: Petition of Robert Dalatri for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1963

A hearing with reference to the above matter was held at the office of the State Tax Commission, 80 Centre Street, New York, New York on January 17, 1967. The appearances and exhibits were as noted on the transcript.

The issue involved the disallowance of a credit for income taxes paid to the Province of Quebec by a New York resident on his Canadian earnings.

The taxpayer, a resident of New York, is a professional football player. During the 1963 season he was employed by the Montreal Alouettes of the Canadian Football League, who withheld Quebec Provincial income taxes equal to \$232.62 in United States dollars from his salary. On taxpayer's New York income tax resident return he reported his income from all sources, computed a tax of \$126.91, claimed a credit for such provincial taxes, and reduced his tax liability accordingly. The Income Tax Bureau, by notice of deficiency and statement of audit changes dated March 15, 1965, disallowed the deduction on the authority of section 620 of the Tax Law, holding such credit to residents is limited to taxes paid to states of United States, their political subdivisions and the District of Columbia, and found a deficiency in the full amount of \$126.91.

Taxpayer contends that the disallowance is unfair, subjects him to double taxation and does not conform to the practice of the United States Treasury Department, which permits such credit for Federal tax purposes.

Under section 620 of the Tax Law no credit is allowable for taxes paid to foreign governments. However, taxpayer neglected to take credit on his return for \$30.65 withheld from his wages earned in New York, for State income tax, as appears on Form IT-2102 annexed to the return, and I am of the opinion

that the statement of audit changes should be modified to reflect such New York tax withheld by reducing the deficiency by that amount, and as so modified the notice of deficiency should be sustained.

The decision of the Tax Commission should be in the form submitted herewith.

/s/

ALFRED RUBINSTEIN

~~HEARING OFFICER~~

AR:aw  
Enc.

February 9, 1967

(Feb. 26, 1967)

**STATE OF NEW YORK  
STATE TAX COMMISSION**

**-----**  
**IN THE MATTER OF THE PETITION**

**OF**

**ROBERT DALATRI**

**FOR REDETERMINATION OF A DEFICIENCY  
OR FOR REFUND OF PERSONAL INCOME TAXES  
UNDER ARTICLE 22 OF THE TAX LAW FOR THE  
YEAR 1963**  
**-----**

**Robert Dalatri having petitioned for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1963 (File Number 3-8565091) and a hearing having been held before Alfred Rubinstein, Hearing Officer of the State Tax Commission, at 80 Centre Street, New York, New York on January 17, 1967, and Robert Dalatri, the taxpayer, having appeared in person, and the matter having been duly examined and considered,**

**The State Tax Commission hereby finds:**

**(1) That the taxpayer was a New York resident in 1963, employed as a professional football player during that year by the Montreal Alouettes of the Canadian Football League, performing services in Canada; that out of taxpayer's earnings in Canada during 1963 deductions for Quebec Provincial income taxes were withheld in the sum equal to \$232.62 in United States dollars; that the taxpayer was also employed in New York during 1963 and out of his earnings within the State the sum of \$30.83 was withheld for New York income tax.**

**(2) That the taxpayer filed a personal income tax resident return for 1963, reporting his earnings from all sources, on which he**

computed a tax of \$126.91; that taxpayer reported as a credit against the tax the Quebec Provincial income tax of \$232.62 he paid that year; that taxpayer neglected to report New York tax withheld in the sum of \$30.85 as a credit, which sum was properly applicable in reduction of the tax due.

(3) That by notice of deficiency and statement of audit changes dated March 15, 1963 the Income Tax Bureau disallowed the credit taken by taxpayer on his 1963 income tax return in the sum of \$232.62 for Quebec Provincial income tax paid in 1963 as not allowable under section 620 of the Tax Law and determined a deficiency in the entire tax due as computed, in the sum of \$126.91; that taxpayer filed a timely petition for redetermination or refund with respect thereto.

Based upon the foregoing findings, the State Tax Commission hereby

**DECIDES:**

(A) That the credit taken by the taxpayer on his 1963 income tax return in the sum of \$232.62 for Quebec Provincial income taxes paid by him was not a credit allowable under section 620 of the Tax Law.

(B) That the taxpayer had previously paid the sum of \$30.85 on account of his 1963 income taxes by the withholding of said sum out of his earnings within the state; that accordingly, the notice of deficiency and statement of audit changes is modified, as follows;

Personal income tax due, per return	\$126.91
Less: New York tax withheld	<u>30.85</u>
Balance of Personal income tax due	\$ 96.06
Interest	<u>5.28</u>
Total	\$101.34

(C) That accordingly, the notice of deficiency imposing additional taxes and interest upon the taxpayer, as modified herein above, is correct, and the amount set forth therein is due and owing, together with additional interest and other statutory charges; that the said notice of deficiency, as modified, does not include any tax or other charges which could not have been lawfully demanded, and that the taxpayer's petition for redetermination or for refund with respect thereto, except to the extent herein granted, be and the same is hereby denied.

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

**STATE TAX COMMISSION**

/s/

JOSEPH H. MURPHY

**President**

/s/

JAMES R. MACDUFF

**Commissioner**

/s/

WALTER MACLYN CONLON

**Commissioner**