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Income Tax Determinations A-Z
Morris, William and Elizabeth

The State Tax Commission

Solomon Sies, Hearing Officer

William and Elizabeth Morris

Petition for redetermination of a deficiency
or for refund of personal income taxes under
Article 22 of the Tax Law for the year 1964.

A hearing was held in the above matter at the New York City office on January 31, 1968.

This is a Federal substantiation audit case in which a portion of travel and entertainment expense was disallowed.

The taxpayer William Morris is a securities salesman employed on a commission basis. He is not reimbursed for his expenses. He specializes, primarily in the sale of bond issues. He has customers located in various parts of the country and in London, England. It is necessary for the taxpayer to visit with his customers to discuss their portfolios and to continue to service their accounts.

On his return the taxpayer claimed a deduction of business expenses of $10,255.21 as follows: home entertainment, $2,712.00; $7,543.21 for travel, entertainment and gifts of which $2,553.41 represented European travel and entertainment. The Income Tax Bureau disallowed $712.00 for home entertainment and $2,493.46 of the expenses claimed for travel, entertainment and gifts on the ground that "travel expense has been reduced to an amount considered reasonable." Entertainment and other expenses have been adjusted because you did not furnish adequate substantiation to support the entire amount of expenses claimed."

The representative for the taxpayer submitted an affidavit from the taxpayer and statements and records to substantiate the business expenses claimed. He also exhibited at the hearing the diary regularly maintained by the taxpayer with respect to business entertainment, travel and gift expense. He also submitted copies of the taxpayer's Federal returns for 1963 and 1965 with statements from Internal Revenue Service that said returns were accepted without change. The said returns included similar business deductions as that claimed for the year 1964.

I am of the opinion that the travel and entertainment expenses were reasonable, ordinary and necessary and should not have been disallowed.

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

SOLOMON SIES

Hearing Officer

August 6, 1968

9-17-68

STATE OF NEW YORK
STATE TAX COMMISSION

- -X

IN THE MATTER OF THE PETITION

OF

WILLIAM AND ELIZABETH HARRIS

FOR REDETERMINATION OF A DEFICIENCY
OR FOR REFUND OF PERSONAL INCOME
TAXES UNDER ARTICLE 22 OF THE TAX
LAW FOR THE YEAR 1964.

- -X

The above-named taxpayers having filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1964, and a hearing having been held in connection therewith at the office of the State Tax Commission at 80 Centre Street, New York, N.Y. on the 31st day of January 1969 before Solomon Sies, Hearing Officer of the Department of Taxation and Finance, at which hearing the taxpayers were represented by Irving Gitbell, CPA, and the matter having been examined and considered,

The State Tax Commission hereby finds:

(1) That William and Elizabeth Harris filed a joint federal income tax return for the year 1964, in which they reported adjusted gross income of $46,673.90; that the taxpayer William Harris deducted on said return employee business expense (unreimbursed) in the amount of $10,255.21; that the taxpayers elected to file separate New York State resident returns on Form IT-208; that the taxpayer William Harris reported total income of $53,249.84 less $10,255.21, or a total New York income of $42,994.63.

(2) That on April 24, 1967 the Department of Taxation and Finance issued a Statement of Audit Changes and Notice of Deficiency

against the taxpayer, disallowing a portion of home entertainment in the amount of $712, and other business expenses including travel and entertainment of $2,490.44, or a total of $3,202.44; that additional tax was imposed against the taxpayers for said year in the amount of $359.42, including interest; that the basis for the disallowance of the above-mentioned deductions was that the travel expense was reduced to an amount considered reasonable; that the entertainment and other expenses were adjusted on the ground that the taxpayer did not furnish adequate substantiation to support the entire amount of expenses claimed.

(3) That during the year 1964 and prior thereto the taxpayer was, and still is, employed by Salomon Brothers & Hutzler as a security salesman on a commission basis specializing in the sale of bond issues; that the said taxpayer is not reimbursed by his employer for any of the expenses incurred by him; that the taxpayer has customers located in various parts of the country and, also, a number of customers located in London, England; that it is necessary for the taxpayer to visit with his customers in order to discuss their portfolios and in order to continue to service their accounts; that the taxpayer expended $2,712 for home entertainment; that he also spent $7,343.21 for travel, entertainment and gifts, of which $2,553.41 represented European travel and entertainment.

(4) That the representative for the taxpayer submitted statements and records to substantiate the business expenses which were paid by check; that the representative exhibited at the hearing the diary regularly maintained by the taxpayer with respect to business travel, gift and entertainment expenses; that there were submitted copies of taxpayers' Federal 1963 and 1965 returns

together with statements from the Internal Revenue Service that said returns were accepted without change; that said returns included substantially similar business deductions as that claimed for the year 1964.

(5) That the business expenses during the year 1964 amounting to $10,283.21 were ordinary and necessary; that the same were substantiated.

Based upon the foregoing findings and all of the evidence presented herein,

The State Tax Commission hereby

DECIDES:

That on the basis of Finding (5) above, the Statement of Audit Changes and Notice of Deficiency issued against the taxpayers for the year 1964 are incorrect; that the additional taxes imposed were not due and owing; that the taxpayers' petition for redetermination of a deficiency is hereby granted and the Notice of Deficiency for the year 1964 is hereby cancelled and revoked.

DATED: Albany, New York, the 19th day of September [illegible].

STATE TAX COMMISSION

/s/ JOSEPH H. MURPHY
President

/s/ A. BRUCE MANLEY
Commissioner

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Commissioner