

STATE OF NEW YORK
STATE TAX COMMISSION

HEARING UNIT - File Copy

TAX *Pers. Inc. & UBT*
ART. *Ko Ko-A* SECS.

In the Matter of the Application :
of :
SAM SPIEGEL :
for Revision or Refund of Personal :
Income Taxes and Unincorporated :
Business Taxes for the Years 1957 :
and 1959 :

KEY WORDS

DETERMINATION

CASE LAW CITATIONS

REMARKS

The taxpayer having filed applications for revision of an assessment dated April 28, 1960, of personal income tax in the amount of \$1239.33 due under Article 16 of the Tax Law for the year 1957 and for revision of an assessment dated September 13, 1961, of unincorporated business tax in the amount of \$1565.00, plus additional charges and interest, due under Article 16-A of the Tax Law for the year 1957 and for refund of personal income taxes paid for the year 1959 under Article 16 of the Tax Law; and such applications having been denied and a hearing having been demanded and duly scheduled before Nigel G. Wright, Hearing Officer, and the record having been duly examined and considered,

The State Tax Commission hereby

FINDS:

1. The issues herein are: for 1957, substantiation of the amount of interest paid and claimed on the personal income tax return in the amount of \$17,704.73 and the failure to declare unincorporated business tax on a fee of \$50,000.00 received from a motion picture corporation; for 1959, the substantiation of deductions taken on the return.

2. The taxpayer produced checks for \$7357.96 and \$9989.27 in proof of the interest payments in 1957. He did not offer proof of the additional \$357.50 claimed.

3. Taxpayer received \$50,000 in 1957 from Horizon American Pictures Corp., a corporation wholly owned by taxpayer. This was allegedly for services rendered in the production of the motion picture, "The Bridge on the River Kwai". Taxpayer allegedly had a contract to produce such motion picture and assigned the contract to the corporation. This is the only picture produced by either taxpayer or Horizon American Pictures Corp. during the taxable year. The contract was not produced, and the taxpayer himself did not appear at the hearing.

4. The refund claimed for 1959 is based on additional deductions. Taxpayer agreed to abide by a Federal audit of those deductions but has failed to produce a copy of that audit.

Upon the foregoing findings and all the evidence in the case,
The State Tax Commission hereby

DETERMINES:

A. The taxpayer has proven for the year 1957 deductions for interest paid in the amount of \$17,347.23. He has not proven deductions claimed in the amount of \$357.50, and the assessment is revised to \$25.03 together with such additional charges and interest if any as may be lawfully due under sections 376 and 377 of the Tax Law.

B. The taxpayer has not carried the burden of proof with respect to the assessment for unincorporated business taxes for the year 1957. Such assessment is affirmed in its entirety together with such additional charges and interest as may be lawfully due under sections 376 and 377 of the Tax Law.

C. Taxpayer has not carried the burden of proof with respect to the refund claimed for personal income tax for the year 1959, and such refund is denied in its entirety.

DATED: Albany, New York
June 3, 1970

STATE TAX COMMISSION

William J. Sullivan
COMMISSIONER

John J. Riley
COMMISSIONER

William J. Sullivan
COMMISSIONER