

A. Interest income on Appalachian Electric bonds not reported	\$ 16,406.25
B. Interest income on Appalachian Electric bonds at date of sale on 6/29/55	729.18
C. Traveling and entertaining expenses disallowed as personal and/or unsubstantiated	2,000.00
D. Medical deductions claimed as 5% of the balance as adjusted (line 35, page 2, of taxpayer's 1955 income tax return) exceed total medical expenses	1,009.66
E. Deduction claimed for legal fees incurred in connection with proposed sale of personal residence disallowed . . .	9,330.49
F. Deduction claimed for amortization of bond premium disallowed	<u>105,000.00</u>
TOTAL	\$134,475.58

Credit was given to the taxpayer for the following items:

1G. Deduction for interest expense incurred in connection with purchase of Appalachian Electric bonds not claimed in tax return, not allowed	\$ 5,276.25
1H. Additional allowance for contributions by reason of increase in taxable income	<u>19,228.45</u> <u>24,504.70</u>
Net increase in taxable income	\$109,970.88

2. The taxpayer timely filed an application for revision or refund of said additional personal income tax of \$7697.96 assessed for the year 1955 under Article 16 of the Tax Law but at the hearing objected only to two of the above items, namely the disallowance of the deduction of \$9330.49 for legal fees (1E) and the disallowance of the deduction of \$105,000 for amortization of a bond premium (1F).

3. That the said legal fees of \$9330.49 deducted were paid in connection with litigation resulting from a proposed sale of real estate, which was inherited by the taxpayer and others.

CONCLUSIONS OF LAW

1. Taxpayer's contention that legal fees of \$9330.49 incurred by reason of litigation resulting from the refusal of the purchaser of certain real property

to close title to the same were a proper deduction is completely without merit. The taxpayer was not engaged in the real estate business. The real property involved was inherited by him and others, and the legal fee incurred is part of the cost of disposing of the real property and is deductible only against the final selling price.

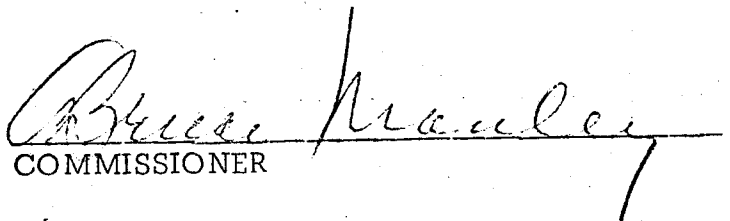
2. The disallowance of the deduction of \$105,000 for amortization of the bond premium was proper as the Manual of Policy of the Department of Taxation and Finance provides that such a deduction is not allowable in the case of bonds which an individual holds free of trust.

3. Taxpayer's application for a review of the additional assessment of \$7697.96 as additional income tax for the year 1955 is denied. Said assessment is affirmed and the taxpayer is directed to pay to the State Tax Commission the sum of \$7697.96, together with appropriate interest and penalty as provided by law.

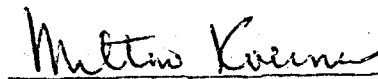
STATE TAX COMMISSION



COMMISSIONER



COMMISSIONER



COMMISSIONER

DATED: At Albany, New York,
this 26th day of
May 1970.