STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition of **SAAGAR KAUL** for the Redetermination of a Deficiency or for Refund of New York State and New York City Personal Income Tax under Article 22 of the Tax Law and the New York City Administrative Code for the Year 2016.	: : : : :	SMALL CLAIMS DETERMINATION DTA NO. 829151

Petitioner, Saagar Kaul, filed a petition for redetermination of a deficiency or for refund of New York State and New York City personal income tax under article 22 of the Tax Law and the New York City Administrative Code for the year 2016.

A small claims hearing was held before James P. Connolly, Presiding Officer, on April 16, 2021, with all briefs to be submitted by July 20, 2021, which date began the three-month period for the issuance of this determination. Petitioner appeared by Rajeev Kaul, CPA. The Division of Taxation appeared by Amanda Hiller, Esq. (Tammy Weinstock). This matter was reassigned to Barbara J. Russo, Presiding Officer, pursuant to the authority of section 3000.13 (i) of the Rules of Practice and Procedure of the Tax Appeals Tribunal (20 NYCRR 3000.13 [i]), who issues the following determination.

ISSUE

Whether the Division of Taxation properly disallowed petitioner's claimed itemized deductions reported as unreimbursed employee expenses for the year 2016.

FINDINGS OF FACT

1. Petitioner, Saagar Kaul, filed a New York State and City resident income tax return for

the year 2016. Petitioner reported, among other items, wage income in the amount of $36,046.00, federal adjusted gross income of $35,148.00, and New York adjusted gross income of $33,639.00. From this amount, petitioner subtracted itemized deductions totaling $48,790.00, reported taxes withheld of $2,317.00 and requested a refund in the amount of $2,317.00.

2. Petitioner's 2016 return lists his occupation as "student."

3. Attached to petitioner's 2016 return was federal schedule A, itemized deductions, and form IT-201-D, resident itemized deduction schedule. On the schedule A and IT-201-D, petitioner reported job expense and miscellaneous deductions of $48,790.00 ($49,493.00 claimed for unreimbursed employee expenses reduced by the 2 percent adjustment).

4. Petitioner's 2016 form W-2, wage and tax statement, reports petitioner's employer's name as The Trustees of Columbia University and shows wages of $36,046.00.

5. The Division of Taxation (Division) selected petitioner's 2016 income tax return for review and by letter dated September 5, 2017, requested additional information to verify the claimed itemized deductions. The Division requested that petitioner provide, in part, the following:

> " - letter from your employer verifying that the expenses that you're claiming were necessary for your employment and weren't reimbursed or reimbursable
>
> - a detailed explanation of the nature of each expense and how it relates to your employment
>
> - canceled checks and receipts that identify the items you purchased
>
> - if you're claiming travel expenses, documentation that supports your claims of expenses and mileage
>
> - we won't accept credit card statements without supporting receipts."

6. Petitioner responded to the Division's inquiry by correspondence dated September 20, 2017. Included with petitioner's response was a copy of form 1098-T, tuition statement from

Columbia University, showing amounts billed to petitioner for qualified tuition and related expenses in 2016 of $100,068.00. Petitioner included a statement showing 2016 tuition of $96,779.00 and fees of $3,289.00 for Columbia University, and payments of $103,218.00. Petitioner also included a financial detail statement that showed Columbia University tuition and fees of $49,493.00 and $893.00, respectively, for spring 2016 for a three-year JD/MBA program, and tuition and fees of $47,286.00 and $2,396.00, respectively, for fall 2016 for a three-year JD/MBA program.

7. The Division responded to petitioner's correspondence by letter dated December 19, 2017, and stated, in part, as follows:

> "The refund requested cannot be allowed based on the following:
>
> We have reviewed your response to our inquiry letter requesting documentation to substantiate the itemized deductions that were reported on your 2016 New York State tax return.
>
> We will not allow graduate tuition expenses without a letter from your employer that describes their reimbursement policy for continuing education. The letter must also verify that this education will not qualify you for a new position, nor is it required to meet the minimum qualification of your current position. The letter from your employer should contain information regarding your employment agreement and whether it includes a requirement that you must obtain additional educational credits to continue in your current employment.
>
> Your tuition appears to be for a doctorate degree. Doctorate education puts a taxpayer in a status with job duties that constitute as a new trade or business. This is true even if the taxpayer labored in a similar position in the same field or endeavor after completing the education.
>
> No additional refund will be allowed."

8. By letter dated January 12, 2018, petitioner responded to the Division's correspondence and included a letter dated January 12, 2018 from the Director of Legal Personnel & Recruiting at Cravath, Swaine & Moore, LLP (Cravath). The letter from Cravath stated:

> "This will confirm that Saagar Kaul was employed by Cravath, Swaine & Moore

LLP ("Cravath") as a Summer Associate from May 23, 2016 to August 5, 2016 and has been employed as a Law Clerk from September 11, 2017 through January 9, 2018 and an Associate Attorney from January 10, 2018 through present.

The Firm did not reimburse Mr. Kaul for his M.B.A. degree.

Please feel free to call me or e-mail me if you have any questions or require further information."

9. The Division issued a notice of disallowance (notice) to petitioner, dated January 30, 2018, denying a portion of petitioner's refund claim in the amount of $1,319.00 for the year 2016. The notice stated, in part,

"We have received the letter from your employer that clearly indicates your obtaining an M.B.A. degree has resulted in a change of position.

The letter indicates that you began your employment as a Summer Associate, changed positions to a Law Clerk and are now working as an Associate Attorney. Your preparer indicates that your employer does not reimburse associates for non-legal education. If your M.B.A. is for non-legal education, it is not work-related.

No additional refund will be allowed for the 2016 tax year."

10. Petitioner testified that he was a paralegal at Cravath from 2012 to 2014.

11. Petitioner attended Columbia University from 2014 through 2017 and was enrolled in a dual Master of Business Administration and Juris Doctor (MBA/JD) three-year business and law program. Petitioner's transcript from Columbia University shows that for the fall 2015, spring and fall 2016, and spring 2017 semesters, he took courses from both the School of Business and the School of Law. The transcript also shows that for the fall 2015, spring and fall 2016, and spring 2017 semesters, some of the courses petitioner attended through Columbia University's School of Business counted towards requirements for the juris doctor degree. On May 17, 2017, petitioner was awarded Juris Doctor and Master of Business Administration degrees.

12. During the summer of 2015, petitioner interned at the Securities and Exchange

Commission (SEC).

13. Petitioner testified that he worked as a summer associate at Cravath in 2016 and provided a letter from Cravath stating that he was a summer associate from May 23, 2016 to August 5, 2016 (***see*** finding of fact 8). However, the W-2 issued to petitioner for 2016 reports the employer's name as The Trustees of Columbia University (***see*** finding of fact 4). Petitioner had no explanation for the discrepancy.

14. Petitioner was employed as a law clerk at Cravath from September 11, 2017 through January 9, 2018 and as an associate attorney from January 10, 2018 to present.

CONCLUSIONS OF LAW

A. Pursuant to Tax Law § 689 (e), petitioner bears the burden of establishing, by clear and convincing evidence, that the Division's adjustment of his claimed refund is erroneous (***see Matter of Suburban Restoration Co. v Tax Appeals Trib***, 299 AD2d 751 [3d Dept 2002]). Deductions and credits are a matter of legislative grace, and the taxpayer bears the burden of proving that he is entitled to any deduction or credit claimed (***see Deputy v du Pont***, 308 U.S. 488, 493 [1940]; ***New Colonial Ice Co. v Helvering***, 292 U.S. 435, 440 [1934]). Here, the question presented is whether petitioner established that the Division improperly disallowed the itemized deductions claimed by him for educational expenses in 2016.

B. Tax Law § 615 (a) provides that the New York itemized deductions of a resident individual are the same as the itemized deductions allowed for Federal income tax purposes, with certain modifications not applicable herein. Accordingly, it is appropriate to look to the provisions of the Internal Revenue Code (IRC), Federal regulations and Federal case law to resolve this controversy (***see*** Tax Law § 607 [a]).

Internal Revenue Code (IRC) (26 USC) § 162 (a) allows a deduction for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or

business. Although this section does not explicitly mention expenditures for education, Treasury Regulation (26 CFR) § 1.162- 5 provides objective tests for determining whether such expenditures are deductible (***see Taubman v Commissioner***, 60 TC 814, 817 [1973]; ***Bodley v Commissioner***, 56 TC 1357, 1360[1971]), and has been upheld as valid (***see Weiszmann v Commissioner***, 52 TC 1106, 1112 [1969], ***affd*** 443 F2d 29 [1971]). The regulations provide the general rule that educational expenses are deductible as ordinary and necessary business expenses if the education (1) maintains or improves skills required by the individual in his or her employment or other trade or business, or (2) meets the express requirements of the individual's employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the individual of an established employment relationship, status, or rate of compensation (Treas Reg § 1.162-5 [a] [1]). However, this general rule applies only if the expenditures do not fall within either of two specified categories. That is, if the education expenditures are required in order to meet the minimum educational requirements for qualification in the taxpayer's employment, or qualify the taxpayer for a new trade or business, they are nondeductible personal expenditures (Treas Reg § 1.162-5 [b] [2], [3]).

C. The first question presented in this case is whether petitioner was carrying on a trade or business in 2016 when he incurred the educational expenses in issue. Generally, to claim deductions for educational expenses, a taxpayer must be engaged in a trade or business during the period the courses are taken. In this case, petitioner has failed to meet his burden of proving that he was engaged in a trade or business during the period the educational expenses were incurred. Petitioner claimed as a deduction the tuition expenses he incurred for the spring semester of 2016. On petitioner's 2016 return, he reported his occupation as "student" and the record shows that he was a full-time student at the time the expenses at issue were incurred.

Prior to attending Columbia University, petitioner worked as a paralegal. Petitioner has

presented no evidence, nor does he argue that the educational expenses at issue maintained or improved skills required by him in his employment as a paralegal, or met the express requirements of his employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by him for his job as a paralegal. He ended that position in 2014 to pursue a graduate degree through the dual JD/MBA program at Columbia University. During his summer breaks while attending Columbia University, petitioner interned at the SEC in 2015, and then as a summer associate at Cravath in 2016. After graduating in 2017, petitioner gained employment as an associate attorney at Cravath. This chronology shows that in the spring of 2016, when the expenses at issue were incurred, petitioner was not carrying on a trade or business. Rather, petitioner was a student pursing a dual JD/MBA degree at Columbia University. While petitioner contends that he was employed at Cravath in the summer of 2016, such employment does not qualify petitioner for the deduction. Petitioner's summer associate position occurred after he was already engaged in the courses at Columbia University and incurred the tuition expenses for which he claims the deduction. Furthermore, as discussed below, the educational expenses qualified petitioner for a new trade or business, different from his position as a summer associate.

D. The education expenditures qualified petitioner for a new trade or business. When education qualifies a taxpayer to perform tasks and activities significantly different from those he could perform before the education, then the education is deemed to qualify the taxpayer for a new trade or business (***see Robinson v. Commissioner***, 78 T.C. 550, 552 [1982]). Petitioner's education expenses were incurred to complete the dual JD/MBA program and obtain a degree which later allowed him to become qualified to practice law in New York. Petitioner attempts to separate the educational expenses for the MBA program from the JD program, arguing that the MBA degree did not qualify him for a new trade or business. However, contrary to petitioner's

argument, the expenses cannot be segregated. Petitioner's contention that the tuition for the spring 2016 semester was only for the MBA program is not supported by the record. Specifically, the educational expenses incurred in the spring 2016 semester that petitioner wishes to deduct were for the dual JD/MBA program and the record shows that petitioner attended courses to meet the requirements of both degrees during that period. Upon completion of the dual JD/MBA program, petitioner earned both a Juris Doctor degree that qualified him to perform tasks and activities significantly different from those he could perform before obtaining it as well as the Master of Business Administration degree (***see O'Connor v Commissioner***, T.C. Memo. 2015-155, ***aff'd*** 653 Fed Appx 633 (10th Cir 2016). Petitioner was not eligible to sit for the New York State bar examination before completing the program and obtaining his degree and could not establish himself as an attorney before incurring the educational expenses at issue. As a summer associate at Cravath in 2016, petitioner was not qualified to practice law. After receiving his dual degrees, petitioner was eligible to take the bar exam and, upon passing it and meeting all other eligibility requirements, be admitted to practice as an attorney in New York (***see id.***). Although the MBA degree was not required to qualify petitioner for the practice of law, the JD degree was, and the educational expenses for both degrees were billed as one program of study. While petitioner's pursuit of both degrees through the dual program may be commendable, the expenses incurred were for the combined program and such course of study qualified petitioner for a new trade or business. As such, the educational expenses are nondeductible personal expenditures.

E. The petition of Saagar Kaul is denied, and the notice of disallowance, dated January 30, 2018, is sustained.

DATED: Albany, New York
October 14, 2021

/s/ Barbara J. Russo
PRESIDING OFFICER