

Taxation Decisions and Rulings

Income Tax Appeal Board Cases

The Board refused to overrule the Minister when for 1946 he allowed depreciation based on a valuation of inherited property of \$7,100. The taxpayer claimed that the value at the date of inheritance was \$17,000 but in the affidavit for succession duty purposes the value was stated to be \$6,001. *Dunkin v. Minister of National Revenue*, [1950] Tax A.B.C. 431.

The taxpayer was the employee of a packing firm in charge of receiving and shipping eggs. In 1945, through a broker, he made 17 purchases and 18 sales of frozen eggs; in 1946, 45 purchases and 33 sales. He was assessed for 1946 on the profits from his egg transactions and the Board upheld the assessment. *W. G. Brown v. Minister of National Revenue*, [1950] Tax A.B.C. 445.

The taxpayer, a wholesale roofing materials distributor, set up a reserve in 1947 for rebates he might be called on to make to volume purchasers in accordance with the practice of the trade. The Board upheld the Minister's disallowance of the reserve inasmuch as it was contingent and as such non-deductible under section 6(1)(d) of the Income War Tax Act. *D v. Minister of National Revenue*, 2 Tax A.B.C. 1.

A judge who had headed a provincial commission of inquiry was granted by provincial order in council, in 1946 after his duties as commissioner were at an end, "an honorarium for his services during the time he was so engaged". The Board held that the honorarium was income subject to tax. *C v. Minister of National Revenue*, 2 Tax A.B.C. 6.

In 1946 the appellant company received a nil assessment, from which it appealed claiming that in that year it suffered a loss which could be deducted in computing income subject to tax in other years. The Board held that it had no jurisdiction because any loss sustained in 1946 could only be deducted in 1945 or in years after 1946. Mr. Fisher added that in his opinion there was no loss because of the receipt by the appellant of tax-exempt dividends from other Canadian companies. *McTaggart, Hanna-*

ford, Birks and Gordon Limited v. Minister of National Revenue, 2 Tax A.B.C. 26.

In 1946 the taxpayer added a further amount to his reserve for bad debts. The Minister disallowed this additional amount. Before the Board it was shown that in 1942, 1943, 1944 and 1945 very small amounts had been written off compared with the reserve set up. The Board upheld the exercise by the Minister of his discretion in disallowing the additional reserve. *Colquhoun v. Minister of National Revenue*, 2 Tax A.B.C. 31.

A widow, entitled under her husband's will to an annuity, received payments on account thereof in 1946 out of the capital of the estate. In that year the estate reported deductions, including depreciation, in excess of its gross income. The Minister disallowed the depreciation claimed by the estate and taxed that amount in the hands of the widow. The Board allowed the widow's appeal, finding that the annuity payments were made out of capital; that the annuity was a charge on the corpus of the estate; and that the Minister cannot direct that a trustee must resort to the funds derived from a particular source for the payment of a particular legacy in default of specific direction in the will or the law. *I. E. Brown v. Minister of National Revenue*, 2 Tax A.B.C. 37.

WILLIAM J. HULBIG

Montreal

International Penal and Penitentiary Congress

This is a year of international conferences. The latest circular to reach the Editor's desk announces the 12th International Penal and Penitentiary Congress, to be held at The Hague from August 14th to 19th, 1950, under the auspices of the International Penal and Penitentiary Commission, of which the President is Mr. Sanford Bates, Commissioner of the New Jersey Department of Institutions and Agencies. Fifteen questions are on the agenda: the use of psychiatry in prisons, the bases of classifying inmates in penal institutions, the treatment of the habitual criminal, short terms of imprisonment, the regulation of the conditional release of prisoners, progress in the institutional treatment of adolescent delinquents, among others. To introduce discussion, a report will be presented on each question by a person invited to do so by the Commission. Those wishing to take part in the Congress should write for further information to Dr. J. D. van den Berg, Ministry of Justice, The Hague, Netherlands.