

**BOARD OF TAX APPEALS
STATE OF LOUISIANA**

**CHARLES L. AND SANDRA SEAMAN
PETITIONERS**

**VERSUS
DOCKET NO. 9341B**

**SECRETARY,
DEPARTMENT OF REVENUE,
STATE OF LOUISIANA**

RESPONDENT

**FINDINGS OF FACT AND LAW AND
INTERIM ORDER**

A hearing on the merits of this case was held before the Board on May 11, 2016 with Judge Tony Graphia (Ret.), Chairman; Board Members Cade R. Cole and Francis J. "Jay" Lobrano present, and with no member absent. Participating in the hearing was: Charles L. Seaman representing himself and his wife, Sandra Seaman (the "Taxpayers") and Brandea P. Averett, attorney for the Secretary Department of Revenue (the "Secretary" or "Department"). After the hearing, the case was taken under advisement, the Board now unanimously renders this Interim Order.

Taxpayers appeal the Secretary's Assessment of income tax for 2013 in the amount of \$3,862.00 plus interest and penalties. The assessment pertained to income from certain mutual funds (Mutual Funds) owned by Taxpayers. The Mutual Funds held U.S. Government obligations as a certain percentage of the Mutual Funds assets. Income derived from obligations of the U.S. Government are not taxable by the State of Louisiana. See 31 U.S.C. § 3124.

Taxpayer presented some evidence of information returns delivered to Taxpayers from the Mutual Funds that contained reference to the Mutual Fund's percentage of income attributable to income from federal obligations. That information also contained reference to the Mutual Fund's percentage of assets apparently based on the value of the federal obligations, and from the Taxpayer's testimony, it appears that Taxpayers erred and used the

percentage of **value** of the federal obligations rather than the percentage of **income** from the federal obligations to determine the deduction on Schedule E, Form IT 540 for the 2013 tax year. The proper percentage for determination of the deduction is the percentage of income attributable to income from federal obligations.

(1) Taxpayers Charles L. Seaman and Sandra Seaman are entitled to deductions from their Louisiana gross income equal to their pro-rata share of income attributable to federal obligations generated by the Mutual Funds in which Taxpayers held an interest for the tax year 2013.

BOARD:

IT IS ORDERED that the Board will withhold entry of its judgment in this matter for the purpose of giving the Taxpayers thirty (30) days from the date of this Order to deliver to both counsel for the Secretary and to this Board documentation generated by the Mutual Funds held by Taxpayers for the tax year 2013 that establishes both the Taxpayer's share of income generated by such Mutual Fund(s) and the percentage of income generated by each such Mutual Fund attributable to income from Federal obligations and thus Taxpayers' entitlement to the deduction.

IT IS FURTHER ORDERED that failure of the Taxpayers to submit the documentation set forth above shall result in this Board rendering Judgment in favor of the Secretary in the full amount of the Secretary's assessment against Taxpayers, plus all allowable interest and penalties;

IT IS FURTHER ORDERED that the parties are ordered to submit computations for the purpose of establishing the correct amount to be included in the Judgment in this matter, taking into account the documentation (if any) provided by the Taxpayers in accordance with this Order. In the event the Parties are unable to agree upon the amount to be included in the Judgment, then within forty five (45) days of the date of this Order, each party shall file with the Board (with the appropriate service to each other party) a computation of the amount believed by such party to be in accordance with the Board's findings and conclusions. Failure of a party to file a computation of the amount believed by such party to be in

accordance with the Board's findings and conclusions may result in this Board's adopting the computation already submitted. In the event of competing computations, the Board may afford the parties the opportunity to be heard in argument thereon and the Board will determine the correct amount and will enter its Judgment accordingly.

This is an interlocutory order of the Board and is not a final judgment for appeal purposes and its entry does not commence the time to file an appeal.

Baton Rouge, Louisiana, this 16 day of June, 2016.

FOR THE BOARD:

Judge Tony Graphia, (Ret.) Chairman

