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New York Frozen Foods, Inc. v. Bedford Hts. Income Tax Bd. of Rev.

Supreme Court of Ohio - November 3, 2016 - N.E.3d - 2016 WL 6519128 - 2016 -Ohio- 7582

Municipal income taxpayer sought judicial review of decision of the Board of Tax Appeals (BTA) affirming decisions of the Regional Income Tax Agency (RITA) and municipal income tax board of review denying taxpayer's refund claim.

The Supreme Court of Ohio held that:

- Change from filing separate return to filing consolidated return was prohibited change in method of accounting, and
- State statute did not preempt city ordinance placing limitation on refund claims.

Municipal income taxpayer's change from filing a separate return to filing a consolidated return was a change in method of accounting prohibited by city ordinance in pursuing a refund claim. Amended return took broadly different approach to basic computation of taxable income, and term "method of accounting" was not limited to only cash versus accrual accounting under federal law.

State statute governing municipal income taxes did not preempt municipal ordinance placing limitation on refund claims to prohibit amendment of returns to change method of accounting. Plain language of the state law did not expressly override city's power to bar a change of accounting or apportionment method when filing an amended return, and preemption of local tax law could not be accomplished impliedly.

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