

OHIO BOARD OF TAX APPEALS

HAZEL M. WILLACY, (et. al.),)	
)	
Appellant(s),)	CASE NO(S). 2018-758
)	
vs.)	
)	(MUNICIPAL INCOME TAX)
CITY OF CLEVELAND, (et. al.),)	
)	DECISION AND ORDER
Appellee(s).)	
)	

APPEARANCES:

For the Appellant(s) - HAZEL M. WILLACY
 Represented by:
 AUBREY B. WILLACY
 ESQUIRE
 433 FOX HILLS COURT
 OAKLAND, CA 94605-5015

For the Appellee(s) - INCOME TAX BOARD OF REVIEW FOR THE CITY OF CLEVELAND
 Represented by:
 DONNA BUSSER
 ASSISTANT DIRECTOR OF LAW
 CITY OF CLEVELAND - DIVISION OF TAXATION /
 CENTRAL COLLECTION AGENCY
 205 WEST SAINT CLAIR AVE. #300
 CLEVELAND, OH 44113

INCOME TAX BOARD OF REVIEW FOR THE CITY OF CLEVELAND
 Represented by:
 WILLIAM E. GAREAU, JR.
 ASSISTANT DIRECTOR OF LAW
 CENTRAL COLLECTION AGENCY
 205 W. SAINT CLAIR AVE.
 CLEVELAND, OH 44113-1503

Entered Wednesday, May 27, 2020

Mr. Harbarger, Ms. Clements, and Mr. Caswell concur.

Appellant Hazel M. Willacy challenges a decision issued by the City of Cleveland Income Tax Board of Review (“Board of Review”) regarding the taxation of income derived from stock options that were received as compensation while working in Cleveland but exercised after the employee retired and moved out of state. In its decision, the Board of

Review affirmed the tax administrator's denial of Willacy's requested refund for her 2016 income taxes, asserting that she moved out of state so the income from the exercise of her stock options were not taxable.

While this case was pending, the Supreme Court issued its decision regarding the taxability of the stock options that Willacy exercised during tax years 2014 and 2015. *Willacy v. Cleveland Bd. of Income Tax Rev.*, Slip Opinion No. 2020-Ohio-314. In this decision, the court concluded that Willacy's exercise of the stock options generated taxable "qualifying wages" and that Cleveland's taxation of Willacy's compensation in 2014 and 2015 was required under municipal law. The court also decided the constitutional arguments in favor of Cleveland. The court declined to address, however, Willacy's argument that Cleveland must refund the tax under the doctrine of res judicata, which she raised in the present appeal. Nevertheless, we find that Willacy has failed to establish that Cleveland should be estopped from denying the refund request in this case. See *Crown Communication, Inc. v. Testa*, 136 Ohio St.3d 209, 2013-Ohio-3126, ¶21 (estoppel generally does not apply against the state, though it may be applied "in a very limited context" where the taxing authority committed himself in writing over an extended period of time to a particular construction of tax law as applied to the taxpayer).

Accordingly, we conclude that Willacy failed to establish that the qualifying wages derived from the exercise of stock options were not properly taxed by the City of Cleveland and hereby affirm the decision of the Board of Review.

BOARD OF TAX APPEALS		
RESULT OF VOTE	YES	NO
Mr. Harbarger		
Ms. Clements		
Mr. Caswell		

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.



Kathleen M. Crowley, Board Secretary