COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

ELIAS A. CHAHWAN **v.** **COMMISSIONER OF REVENUE**

Docket No. C314486

Promulgated:
September 9, 2013

This is an appeal filed under the formal procedure pursuant to G.L. c. 58A, § 7 and G.L. c. 62C, § 39 from the refusal of the Commissioner of Revenue ("Commissioner" or "appellee") to abate personal income taxes assessed to Elias A. Chahwan ("Mr. Chahwan" or "appellant") for the tax years ended December 31, 2007, December 31, 2008, and December 31, 2009 ("tax years at issue").

Commissioner Chmielinski heard this appeal and was joined by Chairman Hammond and Commissioners Scharaffa, Rose and Mulhern in a decision for the appellee.

These findings of fact and report are made pursuant to requests by the appellant and the appellee under G.L. c. 58A, § 13 and 831 CMR 1.32.

Hilmy Ismail, Esq. for the appellant.

David T. Mazzuchelli, Esq. and *Andrew M. Zaikis*, Esq. for the appellee.

FINDINGS OF FACT AND REPORT

On the basis of the Statement of Agreed Facts, documents, and testimony entered into evidence in this appeal, the Appellate Tax Board ("Board") made the following findings of fact.

The issue in this appeal is whether the appellant was engaged in the trade or business of professional gambling and therefore entitled to deduct his gambling losses to the extent of his gambling winnings in determining his Massachusetts taxable income for the tax years at issue. At all times relevant to this appeal, the appellant was a Massachusetts resident. He filed Massachusetts Form 1 Income Tax Returns for each of the tax years at issue. Based on the advice of a Connecticut accountant, the appellant originally reported his gambling winnings on each of those returns as Schedule X "other income," and did not deduct his gambling losses.

The appellant subsequently consulted with a Massachusetts attorney, who informed him that, as a professional gambler, he was entitled to offset his gambling winnings with his gambling losses. The appellant thereafter filed Applications for Abatement/Amended Returns with the Commissioner, seeking

abatements for each of the tax years at issue.[1] The appellant also requested and received a hearing with the Department of Revenue's ("DOR") Office of Appeals. The Office of Appeals issued a Letter of Determination, denying the appellant's requested abatements and forwarding the claims to DOR's Customer Service Bureau for disposition. The Commissioner issued a Notice of Abatement Determination denying the appellant's claims for abatement on September 6, 2011. The following table contains the relevant jurisdictional information for each of the tax years at issue:

Tax Year	Tax Return Filed	Abatement App. Filed	Abatement App. Denied	Petition Filed
2007	07/17/08	06/29/10	09/06/11	09/22/11
2008	05/22/09	06/29/10	09/06/11	09/22/11
2009	06/28/10	06/29/10	09/06/11	09/22/11

Based on the foregoing, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

Prior to and during the tax years at issue, Mr. Chahwan was employed as the general manager of a car dealership ("car dealership") located in New London, Connecticut. According to his testimony, at the time of the hearing of this appeal he had been employed there for 18 years. Mr. Chahwan testified that he

[1] The Commissioner also issued to the appellant a Notice of Assessment, dated May 25, 2009, assessing additional tax in the amount of $100,367 for tax year 2008, and a Notice of Assessment, dated June 29, 2010, assessing additional tax in the amount of $52,130 for tax year 2009.

commuted to the car dealership from his home in North Attleboro, Massachusetts, a commute which took him approximately 65 minutes each way. Mr. Chahwan testified that he typically left his home for work at 6:30 a.m., and often worked as late as 8:00 p.m. Mr. Chahwan stated that he regularly worked five days a week at the car dealership, and he often worked six days. He testified that he earned approximately $200,000 per year in his position as general manager.

The car dealership was located in close proximity to the Mohegan Sun ("Mohegan Sun") and Foxwoods ("Foxwoods") casinos in Connecticut. Mr. Chahwan testified that, in March of 2007, he visited Mohegan Sun with his friend, David Donfro, who, according to Mr. Chahwan, was a professional gambler. During their visit, Mr. Chahwan played the slot machines and won a substantial amount of money. He stated that at that time, he realized that gambling could be a lucrative career.

According to Mr. Chahwan, he began to study gambling, primarily by watching YouTube videos about gambling, but also by reading books and watching poker on television. Using these sources, he studied gambling for several months, developing his gambling strategy with the goal of becoming a professional gambler. Mr. Chahwan stated that he spent hours observing gambling machines at the casinos, particularly the slot

machines, so he could learn the patterns of payouts of particular machines.

Mr. Chahwan additionally described how, as part of his professional gambling strategy, he tracked the payouts made by the casinos each day and also inspected the parking lots to see how crowded the casinos were. According to Mr. Chahwan, if the casinos had paid out $5,000,000 by 6:00 p.m., it was a "good day," meaning that the casinos were "paying out." Likewise, Mr. Chahwan testified that full parking lots at the casinos were an indication that the casinos were "paying out" that day. Mr. Chahwan also testified that he talked to casino employees to inquire which machines had paid out, and how much, on particular days.

According to Mr. Chahwan, he became a professional gambler in September of 2007. He testified that, at that time, he began to frequent the casinos, especially Mohegan Sun. Evidence entered into the record indicated that Mr. Chahwan visited the casinos: 108 days in 2007; 144 days in 2008; and 140 days in 2009. The record did not indicate how much time Mr. Chahwan spent at the casinos during each visit. Mr. Chahwan primarily played machine-based games, such as slots and video poker, but he occasionally played table games as well.

At the casinos, Mr. Chahwan used a "dream card," which is a card issued by the casino that is inserted into the gambling

machine to record a guest's play, that is, the player's winnings and losses. Mr. Chahwan explained that he used the "dream card" every time he gambled for two reasons: first, because a guest could earn points by using the card, and those points could be redeemed to purchase items within the casinos, and second, because the casinos maintained a record of his gambling activities through his use of the "dream card." Mr. Chahwan relied on the records maintained by the casinos, which were available to him upon request, to keep track of his winnings and losses. There were two types of records available: those which merely recorded wins and losses, as well as more detailed records which included additional information, such as what type of game was played. Mr. Chahwan testified that during the tax years at issue, he accessed only the win/loss records at the request of his accountant. It was not until 2010, the period in which Mr. Chahwan first filed for an abatement, that he requested the more detailed records.

There was no evidence, however, that Mr. Chahwan used the records maintained by the casino to inform his decisions about his purported gambling business, or that he consulted those records for any purpose other than to report winnings and losses for tax purposes. In addition, Mr. Chahwan stated that the casinos also issued him W-2G forms each time that he won a

jackpot, but he threw out those forms as soon as they were given to him because he "didn't need" them.

Mr. Chahwan explained that he would go to the casinos after leaving the car dealership in the evening. He testified that he would usually gamble and then return to his home in North Attleboro; on occasion he would stay over in a hotel and go to the car dealership in the morning. Mr. Chahwan stated that because he was a high-level player, the casinos sometimes gave him complimentary perks such as meals, hotel stays, and golf course privileges. He did not indicate, however, that all of his hotel stays, or the meals that he consumed at the casinos, were complimentary, nor did he report any of the complimentary perks awarded to him by the casinos as taxable income.

No records of expenses incurred by Mr. Chahwan in connection with his gambling activities, such as expenses for transportation, hotels, meals, materials or other supplies were entered into evidence, nor did Mr. Chahwan take deductions for such expenses on his Massachusetts Income Tax returns for the tax years at issue. Although Mr. Chahwan arranged to have taxes withheld from his earnings from the car dealership, he did not prepay taxes or otherwise set aside money to pay taxes on his gambling winnings, even though his accountant advised him to do so.

Mr. Chahwan did not establish a separate bank account or budget for his gambling activities. Instead, he testified that the money that he designated for gambling was the "extra [money he] had after the bills were paid." The money that he won from gambling was not deposited into a bank account, as were his earnings from his job at the car dealership. Instead, he testified that the cash he won from gambling was placed in a shoe box in his bedroom closet. Mr. Chahwan stated that he and his wife had access to the shoe box, and if either of them took money out of it, they would write down the amount on a piece of notepaper. Eventually, he testified, the notepapers were thrown out. Mr. Chahwan testified that he did not carefully keep track of the money in the shoe box because "it wasn't important" to him.

According to Mr. Chahwan, he was not a compulsive gambler, nor did he gamble for the fun of it. Rather, he stated that he gambled with the sole intent of making a profit. On the tax returns entered into evidence, Mr. Chahwan reported a net gambling loss of $243,000 in 2007; a net gambling profit of $115,000 in 2008; and a net gambling loss of $40,000 in 2009.

On the basis of all of the evidence, and placing more weight on the objective evidence than on the appellant's subjective expressions of intent, the Board found that Mr. Chahwan failed to meet his burden of proving that he was

engaged in the trade or business of being a professional gambler. As an initial matter, based on the evidence presented, the Board found it dubious that Mr. Chahwan could pursue gambling to the extent necessary to establish a trade or business. Mr. Chahwan testified that he frequently worked up to six days a week at the car dealership, leaving his home in North Attleboro at 6:30 a.m. and staying at the car dealership until as late as 8:00 p.m. Further, although there was evidence in the record as to how many days each year that Mr. Chahwan visited the casinos, the evidence did not indicate how long he stayed during each visit. Between his more than two-hour roundtrip commute and the long hours that he worked at the car dealership, the Board found it unlikely that Mr. Chahwan was able to dedicate a significant amount of time to gambling.

Furthermore, based on the record as a whole, the Board concluded that Mr. Chahwan did not treat gambling as a bona fide business pursuit. For example, Mr. Chahwan visited the casinos – primarily Mohegan Sun and occasionally Foxwoods – only after completing his job at the car dealership. There was no indication in the record that Mr. Chahwan ever went directly to the casinos from his home in North Attleboro, or that he went to them on days when he did not have to go to Connecticut for his job at the car dealership. In addition, Mr. Chahwan did not establish a budget for his gambling "business." Instead, he

allocated to his gambling whatever money was left over after paying household bills. Nor did Mr. Chahwan open a separate bank account for his gambling "business." Unlike the money he earned from his job at the car dealership, which was deposited into a bank account, the money Mr. Chahwan won from gambling was placed in a shoe box in a closet in his home. Moreover, although Mr. Chahwan stated that he and his wife would record withdrawals of cash from the shoe box on a piece of notepaper, he also acknowledged that the pieces of paper were eventually thrown out, and that he did not keep careful track of the money placed in the shoe box because "it wasn't important" to him. The Board found that the actions taken by Mr. Chahwan in connection with his gambling were more reflective of an activity undertaken for recreation or as a hobby than a professional endeavor.

Further, Mr. Chahwan did not keep track of or take deductions for expenses relating to his gambling "business" during the tax years at issue other than his gambling losses. Given the amount of time that he claims to have spent gambling in a professional capacity during the tax years at issue, and even though he received some hotel stays and meals on a complimentary basis from the casinos, the Board found it highly unlikely that Mr. Chahwan would not have incurred some out-of-pocket expenses for travel, meals, lodging, supplies, materials,

or any other kind of business expense related to his gambling. Moreover, he failed to report the complimentary perks given to him by the casinos as taxable income.

Similarly, although Mr. Chahwan arranged to have taxes withheld from the income he earned at the car dealership, he made no similar arrangements for his gambling winnings. Mr. Chahwan testified that he did not prepay estimated taxes on his gambling winnings, even though his accountant had advised him to do so, nor did he retain the W-2G forms issued to him by the casinos each time that he won a jackpot. He testified that he threw those forms out as soon as they were given to him.

While Mr. Chahwan could, and did, access the records maintained by the casinos, there was no evidence that he used those records to make informed "business" decisions with respect to his gambling, or that he used them for any purpose other than to report winnings and losses for income tax purposes. In fact, he testified that he did not request detailed records from the casinos during any of the tax years at issue, but only requested them in 2010, contemporaneous with the filing of his request for an abatement. The Board found that Mr. Chahwan's failure to: keep track of, or take deductions for, expenses related to his gambling; report complimentary perks given to him by the casinos as taxable income; prepay estimated taxes on his gambling winnings; retain the W-2G forms given to him by the casinos;

request detailed records from the casinos during the tax years at issue; and use those records for more than tax purposes were additional indications that he treated his gambling not as a business, but as a hobby or recreational activity.

In sum, the Board found that the record as a whole showed that Mr. Chahwan observed none of the formalities associated with the conduct of a trade or business with respect to his gambling, and that he instead treated it as a mere hobby or recreational pursuit. The Board therefore concluded that Mr. Chahwan failed to meet his burden of proving that he was engaged in the trade or business of professional gambling. Thus, the Board found and ruled that the appellant was not entitled to offset his gambling winnings with his gambling losses for the purposes of computing his Massachusetts taxable income, and accordingly, issued a decision for the appellee in this appeal.

OPINION

For Massachusetts income tax purposes, "[r]esidents shall be taxed on their taxable income." G.L. c. 62, § 4. The starting point for determining Massachusetts taxable income is Massachusetts gross income, which is "federal gross income" with certain modifications not relevant to these appeals. G.L. c. 62, § 2(a). Pursuant to Internal Revenue Code ("Code") § 61(a), federal gross income is income "from whatever source

derived," and thus federal gross income, and therefore Massachusetts gross income, includes gambling winnings. *See* I.R.C. § 61(a); S*ee also* ***Technical Information Release*** ("***TIR***") ***79-6***, ***DOR Directive ("DD") 86-24,*** and ***DD 03-3***.

In determining gross income, Code § 62(a)(1), allows for the deduction of expenses which are attributable to a trade or business carried on by the taxpayer, with the exception of certain expenses specified in part VII of subchapter B. Specifically, "all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business" are deductible for the purposes of computing gross income. I.R.C. § 162(a); G.L. c. 62, § 2(d)(1). In addition, Code § 212 allows a deduction for ordinary and necessary expenses paid or incurred for the production or collection of income, even though not connected with a trade or business, while Code § 165(d) permits the deduction of gambling losses to the extent that they do not exceed gambling winnings, without regard to whether the taxpayer is engaged in the trade or business of gambling. Accordingly, for federal purposes, gambling losses are deductible, to the extent they do not exceed gambling winnings, if gambling activities are pursued for profit, even if the taxpayer's gambling activities do not rise to the level of a trade or business.

Massachusetts, however, has not adopted Code § 212, which is found at part VII of subchapter B, and is explicitly excluded from the deductions allowed under Code § 62(a)(1). Gambling loss deductions for Massachusetts purposes are subject to the basic restrictions of G.L. c. 62, § 2(d)(1) and Code § 162(a)(1), that is, such losses are deductible only if they are incurred in the conduct of a "trade or business." *See* ***DiCarlo v. Commissioner of Revenue,*** Mass. ATB Findings of Fact and Reports 1989-119, 124 ("***DiCarlo***"). Therefore, in computing Massachusetts gross income, taxpayers may deduct gambling losses only if: (1) the taxpayer demonstrates that he or she is in the "trade or business" of gambling; (2) the expenses constitute ordinary and necessary expenses in the conduct of the trade or business of gambling; and (3) gambling losses do not exceed gains from gambling. *See* ***Lavorante v. Commissioner of Revenue,*** Mass. ATB Findings of Fact and Reports 2012-1149, 1154-56; ***Jones v. Commissioner of Revenue,*** Mass. ATB Findings of Fact and Reports 2011-854, 883; ***Leite v. Commissioner of Revenue,*** Mass. ATB Findings of Fact and Reports 2006-842, 848; ***DiCarlo,*** Mass. ATB Findings of Fact and Reports at 1989-124-25.

The United States Supreme Court has recognized that gambling activities, in certain circumstances, can amount to a trade or business. *See* ***Commissioner v. Groetzinger***, 480 U.S. 23, 24 (1987) (ruling that taxpayer who pursued gambling between

60 to 80 hours per week and held no other employment was engaged in the trade or business of gambling). Specifically, the Court held that if gambling is pursued "full time, in good faith, and with regularity," for the "production of income for a livelihood," and not as a "mere hobby," then it will be considered to be the trade or business of the taxpayer. ***Groetzinger***, 480 U.S. at 35. Thus, the Board has found that a taxpayer who regularly gambled more than twelve hours a day, up to five days a week, was engaged in the trade or business of gambling. ***Jones,*** Mass. ATB Findings of Fact and Reports at 2011-870-77.

Gambling need not be the taxpayer's principal, or only, profession for it to be considered a trade or business. *See* ***Menard v. Commissioner of Revenue,*** Mass. ATB Findings of Fact and Reports 1990-222, 237 ("***Menard***"). In fact, a comparison of the taxpayer's gambling activities with his other professional pursuits is often instrumental in determining whether the taxpayer approached gambling as a profession rather than a hobby or recreational activity. For example, in ***Menard***, the Board found that the taxpayer's gambling activities were pursued "to the fullest extent possible each day, in good faith, and with regularity," and thus, he was engaged in the trade or business of gambling, even though he was also employed as a high school principal. ***Menard,*** Mass. ATB Findings of Fact and Reports at

1990-238. The Board found that the taxpayer's employment as a high school principal did not interfere with his ability to pursue gambling on a nearly full-time basis, because he left school in the afternoon each day and went immediately to the race track, where he remained until late in the evening. ***Id.*** at 1990-225-26. Similarly, in ***DiCarlo,*** the Board found that the taxpayer was engaged in the trade or business of gambling, although he also worked part-time in the mornings as a maintenance man at a restaurant. ***DiCarlo,*** Mass. ATB Findings of Fact and Reports at 1989-122-23. The Board found it significant in that case that the taxpayer expressly secured his early morning, part-time job to allow him to pursue his full-time profession of gambling at dog racing tracks during the remainder of day. ***Id.***

In contrast, in ***Leite v. Commissioner of Revenue,*** Mass. ATB Findings of Fact and Reports 2006-842, 847, the Board found that the taxpayer, who was employed part-time as a truck driver making bread deliveries, was not engaged in the trade or business of gambling. The Board's conclusion in that case was premised in part on its findings that the taxpayer pursued gambling only sporadically, when he had "time and money left over from his regular work as a bread delivery person." ***Id.*** at 2006-847. The Board also found in that case that, while the taxpayer maintained extensive records for his bread delivery

business, he failed to maintain such records relating to his gambling activities. ***Id.*** at 2006-851. Likewise, in ***Cerpovicz v. Commissioner of Revenue,*** Mass. ATB Findings of Fact and Reports 1987-88, 94, the Board found that the taxpayer, who was employed full-time as a teacher, was not engaged in the trade or business of gambling where he earned the majority of his money through teaching, failed to maintain sufficient records of his gambling activities, and failed to take deductions for expenses relating to his gambling activities, even though he incurred them.

In the present appeal, it was apparent from the record that Mr. Chahwan did not treat his gambling activities as a genuine trade or business. There was no indication in the record that Mr. Chahwan ever went directly to the casinos from his home in North Attleboro, or that he went to them on days when he did not have to go to Connecticut for his job at the car dealership. Further, the evidence showed that Mr. Chahwan's job at the car dealership often required him to work six days a week for as many as 12 hours, and that the commute between his home in North Attleboro and his job in New London was more than one hour each way. Therefore, unlike the taxpayers in ***Menard*** and ***DiCarlo,*** whose other jobs afforded them more time for gambling, the Board found and ruled here that Mr. Chahwan's schedule precluded him from devoting a significant amount of time to gambling. *See*

Menard, Mass. ATB Findings of Fact and Reports at 1990-238; ***DiCarlo,*** Mass. ATB Findings of Fact and Reports at 1989-122-23.

In addition, Mr. Chahwan did not observe the formalities typically associated with the conduct of a trade or business. He did not establish a budget for his gambling "business," but rather, allocated to his gambling whatever money was left over after paying household bills. *See* ***Leite,*** Mass. ATB Findings of Fact and Reports at 2006-847 (finding that taxpayer who gambled only when he had extra money from his other job was not engaged in the trade or business of gambling). Indeed, Mr. Chahwan treated his gambling winnings very differently than the income that he earned from his job at the car dealership. Unlike the money that he earned from his job at the car dealership, which was deposited into a bank account, the money Mr. Chahwan won from gambling was placed in a shoe box in a closet in his bedroom. Although Mr. Chahwan arranged to have taxes withheld from the income that he earned at the car dealership, he did not prepay estimated taxes on his gambling winnings, even though his accountant had advised him to do so.

Further, although Mr. Chahwan stated that he and his wife would record withdrawals of cash from the shoe box on a slip of paper, he acknowledged that the slips of paper were eventually thrown out, and that he did not keep careful track of the money placed in the shoe box because "it wasn't important" to him,

just as he did not keep track of the total amount of time that he spent gambling during each visit to the casinos. The Board found and ruled that the evidence established that Mr. Chahwan did not treat his gambling activities as a bona fide business, but rather as a hobby to be pursued in his spare time and with spare money, of which he did not keep close track. *See* ***Lavorante,*** Mass. ATB Findings of Fact and Reports at 2012-1152 (ruling that taxpayer who failed to "maintain a separate bank account or financial records for his alleged" gambling business and who recorded winnings "only if he 'came home with more' money than he started with" was not engaged in the trade or business of gambling).

Similarly, Mr. Chahwan testified that he occasionally stayed overnight at the casino hotels and went directly to his job at the car dealership in the morning instead of returning home to North Attleboro. The evidence indicated that some, but not all, of Mr. Chahwan's hotel stays were complimentary stays given to him by the casinos. Nevertheless, despite the many days each year that Mr. Chahwan visited the casinos, he did not keep track of, or take deductions for, expenses for transportation, meals, lodging, or any other items related to his gambling activities. The Board found and ruled that Mr. Chahwan's failure to keep track of – and deduct – expenses related to his gambling activities was yet another indication

that he undertook those activities as a mere hobby or recreational pastime, and not as a business. *See* ***Cerpovicz,*** Mass. ATB Findings of Fact and Reports at 1987-94 (finding that taxpayer who did not claim deductions for expenses relating to his gambling activities was not engaged in the trade or business of gambling).

Moreover, despite acknowledging that he occasionally received complimentary perks such as meals, hotel stays, and golf course privileges from the casinos, Mr. Chahwan failed to report any such items as taxable income during the tax years at issue. *See* **I.R.C. § 61(a);** ***Comm'r* v. *Glenshaw Glass Co.,*** 348 U.S. 426, 431 (1955) (holding that taxable income is to be construed to include "accessions to wealth" of any kind, unless expressly exempted); ***Comm'r v. Duberstein,*** 363 U.S. 278, 286 (1960) (quoting ***Commissioner v. LoBue,*** 351 U. S. 243, 246) (holding that a transfer of property not otherwise exempted is taxable income, rather than a gift, unless it is transferred with a "'detached and disinterested generosity.'"). *See also* ***Libutti v. Commissioner,*** 98 T.C.M. (CCH) 305 (1996) (holding that "comps" received by taxpayer from a casino were includable in gross income).

Mr. Chahwan likewise failed to retain the W-2G forms that were issued to him by the casinos each time he won a jackpot. Instead, he testified that he threw the forms out immediately

upon receiving them because he "didn't need" them. Further, although he had access to the electronic records maintained by the casinos, there was no indication in the record that he used those records to make informed decisions regarding his gambling "business", or that he used them for anything other than tax purposes. *See* ***Burger v. Comm'r***, 50 T.C.M. (CCH) 1266 (1985) at *20, *aff'd,* 809 F.2d 355 (7th Cir. 1987) (ruling that records maintained by the taxpayer, which consisted of a simple listing of expenses and revenues, were insufficient to allow meaningful business analysis and therefore indicated that the taxpayer's activities were not carried on as a business); ***Golanty v. Comm'r,*** 72 T.C. 411, 430 (1979), *aff'd,* 647 F.2d 170 (9th Cir. 1981) (ruling that taxpayer was not engaged in trade or business of horse-breeding where the evidence showed that she did not consult her records for the "purpose of cutting expenses, increasing profits, and evaluating the overall performance of the operation" or in any other way that would "improve the operation of the enterprise.")

In fact, the evidence showed that Mr. Chahwan did not even request detailed records of his gambling activities from the casinos during the tax years at issue, but instead requested them in 2010, the year in which he filed for a tax abatement. *See* ***Leite,*** Mass. ATB Findings of Fact and Reports 2006-851 (finding that taxpayer's after-the-fact record-keeping was an

indication that his gambling activities were not conducted as a trade or business). The Board found and ruled that these actions were not indicative of an individual engaged in the conduct of a business, and that Mr. Chahwan's lackadaisical approach to gambling, as established by the evidence of record, belied his stated intentions of pursuing gambling as a trade or business.

In conclusion, on the basis of all of the evidence, the Board found and ruled that the appellant failed to meet his burden of proving that he carried on his gambling activities as a "trade or business," and therefore, it found and ruled that he was not entitled to offset his gambling winnings with his gambling losses in computing his Massachusetts taxable income for the tax years at issue. Accordingly, the Board issued a decision for the appellee in this appeal.

THE APPELLATE TAX BOARD

By: _____
Thomas W. Hammond, Jr., Chairman

A true copy:

Attest: _____
Clerk of the Board