

UNDT/2013/057, McCloskey

UNAT Held or UNDT Pronouncements

The UNDT found, in its earlier Judgment McCloskey UNDT/2012/199 that only the decision pertaining to the Statement of Tax Settlement for the year 2010 was receivable. Following the Tribunal's Judgments in McCloskey UNDT/2012/199 and Johnson UNDT/2011/144, as confirmed by the Appeals Tribunal in Johnson 2012-UNAT-240, the Respondent no longer contests the illegality of the decision to use the Applicant's wife's foreign income tax credit. The Respondent nevertheless refuses to reimburse to the Applicant the staff assessment deductions made, which the latter contests. The Tribunal finds in favor of the Applicant and orders the Administration to carry out a new calculation of the deductions of the 2010 staff assessment that ought to be reimbursed to him.

Decision Contested or Judgment/Order Appealed

The Applicant appealed the decision to require him to use his wife's foreign income tax credits to reduce his tax liabilities for the years 2007, 2008, 2009 and 2010.

Legal Principle(s)

Rules governing taxation: The United Nations Income Tax Unit is compelled to apply the jurisprudence set by the Appeals Tribunal. The role of the Tribunal is to grant the Applicant compensation for the financial damage suffered as a consequence of the mistake committed by the UN Income Tax Unit. The Tribunal has to order compensation at the expense of the organizational unit which committed the error hence caused the damage to the Applicant. As such the Tribunal may not impose on the Applicant any course of action to correct the mistakes committed by the Administration.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

No comp. ordered (but judg. for Applicant)

Full judgment

[Full judgment](#)

Applicants/Appellants

McCloskey

Entity

ICTY

Case Number(s)

UNDT/GVA/2012/54

Tribunal

UNDT

Registry

Geneva

Date of Judgement

21 Mar 2013

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Taxation

Applicable Law

Administrative Instructions

- ST/AI/2009/1

Related Judgments and Orders

UNDT/2011/144

UNDT/2012/199

2012-UNAT-240