

UNDT/2023/021, Jackson

UNAT Held or UNDT Pronouncements

The Tribunal held that tax reimbursement is governed by a specific and unique legal regime carefully deliberated upon by the General Assembly. Staff regulation 3.3(f) cannot be read into “other payments” in staff rule 3.17(ii).

The Tribunal agreed with the Applicant’s understanding that payments under staff rule 3.17(ii) relate to all staff and all nationalities of the United Nations and are not restricted only to USA citizens as in the case for reimbursement of income tax under staff regulation 3.3(f). Hence, the two cannot be read together or have same application.

The Tribunal also agreed with the Applicant that unlike allowances and payments in staff rule 3.17(ii) which are made to and “received” by a staff member as a benefit, the tax reimbursement is paid to a third party, the State or Federal Government of the USA. It is not a benefit that a staff member receives as an entitlement. On the contrary, the Tribunal held that it is a burden on the staff member because it comes from staff assessment.

The Tribunal held that the Respondent’s argument that the scope of staff rule 3.17(ii) includes a payment to a staff member in reimbursement for national income taxation in respect of their United Nations salaries and emoluments was without legal basis.

Decision Contested or Judgment/Order Appealed

The Applicant contested a decision by the Assistant Secretary-General Office of Human Resources (“ASG/OHR”) refusing to grant an approval of an exception to then applicable staff rule 3.7(ii) to allow for a retroactive reimbursement of his claimed tax payments.

Legal Principle(s)

A basic tenet of statutory construction prohibits courts and administrative tribunals from interpreting rules in a manner that conflicts with the statutory scheme; rather, rules must be interpreted to be consistent with their enabling statutes.

Tax reimbursement is governed by a specific and unique legal regime carefully deliberated upon by the General Assembly.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The decision to deny the Applicant retroactive reimbursement of 2015-2018 State tax on the ground that he filed his claim late was rescinded. The application was allowed.

The Respondent was ordered to pay the Applicant's 2015-2018 State tax and to also reimburse to the Applicant any penalty and interest accrued on unpaid taxes for 2015-2018 from 27 January 2022. All other claims were dismissed.

Full judgment

[Full judgment](#)

Applicants/Appellants

Jackson

Entity

MINUSCA

Case Number(s)

UNDT/NBI/2022/057

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

28 Mar 2023

Duty Judge

Judge Sikwese

Language of Judgment

English

Appeal Status

Appealed

Issuance Type

Judgment

Categories/Subcategories

Reimbursement of income tax
Benefits and entitlements

Applicable Law

Administrative Instructions

- ST/AI/1998/1

Staff Rules

- Rule 3.17(ii)

Related Judgments and Orders

2012-UNAT-260