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### **Excise Tax--Constitutional Law--Power of State to Tax Income from Copyright (Educational Films Corporation of America v. Hamilton Ward, Atty-Gen. of N.Y., 51 S. Ct. 170 (1931))**

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EXCISE TAX—CONSTITUTIONAL LAW—POWER OF STATE TO TAX INCOME FROM COPYRIGHT.—Plaintiff, a domestic business corporation, derived its income solely from copyrights granted by the United States on motion picture films. These copyrights were not all held in the name of the plaintiff corporation, but the latter owned and received the income from all the copyrights. The State, in determining plaintiff's franchise tax, used the income derived from the copyrights as a measure of the tax. Plaintiff sought to enjoin defendant from collecting the tax on the ground that a direct tax on incomes from copyrights may not be levied by the State. On appeal from a decree dismissing the petition, *Held*, affirmed. This non-discriminatory tax is not directly on income but is purely an excise. The copyright income was merely a casual incident in the determination of the franchise tax which directly imposes no burden on the federal government. *Educational Films Corporation of America v. Hamilton Ward, Atty.-Gen. of N. Y.*, 51 Sup. Ct. 170 (1931).

For a discussion of this case in the Court of Appeals, see (1930) 5 St. John's L. Rev. 138.

W. H. S.

INCOME TAX—BASIS FOR DETERMINATION OF GAIN.—Petitioner, a manufacturer of metal castings, brought suit to recover income and excess profits taxes assessed and paid for the year 1917. Right to recover was asserted on the sole ground that a munitions tax levied under the Revenue Act of 1916,<sup>1</sup> which became due and was paid by petitioner in 1917 was correctly deducted from gross income in petitioner's tax returns for that year. Petitioner contends that its returns were made as "cash receipts and disbursements" returns under section 12 (a) and not under 13 (d), and that since by section 12 (a) taxes are required to be deducted only in the year when paid, its munitions tax was rightly deducted in the 1917 return.<sup>2</sup> The Commissioner, rejecting this contention, deducted the tax from gross income for 1916, the year when it accrued, and collected a correspondingly increased income and profits tax for 1917, which is involved in the present suit. On appeal from a decision in the Circuit Court for the government, *Held*, affirmed. In computing the Federal Income Tax the munitions manufacturer's tax for 1916 should have been deducted from 1916 income and not from 1917 income, although paid in the latter year, since the evidence indicated the books and tax returns were made on the accrual basis. *Aluminum Casting Company v. Routzahn*, 282 U. S. 92, 51 Sup. Ct. 11 (1930).

In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the

<sup>1</sup> Revenue Act of 1916 (c. 463, 39 Stat. 756, 780).

<sup>2</sup> Revenue Act of 1916 (c. 463, 39 Stat. 767, 771).