

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
BERTRAM BLUMBERG AND ANN BLUMBERG	:	DECISION
	:	
for Redetermination of Deficiencies or for	:	
Refunds of New York State Personal Income Tax	:	
under Article 22 of the Tax Law and New York	:	
City Personal Income Tax under Chapter 46,	:	
Title T of the Administrative Code of the City	:	
of New York for the Year 1980.	:	

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Petitioners, Bertram Blumberg and Ann Blumberg, 12 West 96th Street, New York, New York 10025, filed a petition for redetermination of deficiencies or for refunds of New York State personal income tax under Article 22 of the Tax Law and New York City personal income tax under Chapter 46, Title T of the Administrative Code of the City of New York for the year 1980 (File No. 63956).

A hearing was held before Arthur Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on December 2, 1986 at 10:45 A.M. Petitioners appeared by Maurice S. Joseph, CPA. The Audit Division appeared by John P. Dugan, Esq. (Gary Palmer, Esq., of counsel).

#### ISSUE

Whether petitioners are liable for the payment of interest.

#### FINDINGS OF FACT

1. Petitioners, Bertram Blumberg and Ann Blumberg, timely filed a New York State and City resident income tax return for the year 1980.
2. On September 16, 1983, the Audit Division issued a Statement of Audit Changes to petitioners for 1980 which contained the following explanation:

"The Professional Service Corporation in which you are a shareholder/employee failed to reply to our letters of July 23, 1982 and September 21, 1982 requesting compliance under Section 658(f) of the New York State Tax Law. Section 658(f) requires a Professional Service Corporation to make and file information returns regarding your pension, social security, and certain insurance under Section 612(b)(7), (8) and (9) of the New York State Tax Law.

Therefore, since no modification was reported on your return an estimated adjustment **is** made based on available information.

<u>Adjustment</u>	<u>Husband</u>	<u>Wife</u>
Section 612(b)(7)	\$6,150.00	\$1,920.00
Section 612(b) (8)	1,315.72	650.24
Total	<u>\$7,465.72</u>	<u>\$2,570.24</u>

Said statement determined additional tax due of \$1,142.97 from Bertram Blumberg and \$393.98 from Ann Blumberg, plus interest of \$446.39, for a total of \$1,983.34.

3. Based on the Statement of Audit Changes, the Audit Division, on April 12, 1984, issued a Notice of Deficiency to Bertram Blumberg, asserting tax due of \$1,142.97, plus interest of \$409.11, for a total of \$1,552.08. A separate Notice of Deficiency was issued on April 5, 1984 to Sandra Blumberg, asserting tax due of \$393.98, plus interest of \$141.04, for a total of \$535.02. Although the name was incorrect, the notice had the correct address of Ann Blumberg.

4. Upon receipt of the notices of deficiency, petitioners initiated correspondence with the Audit Division regarding, inter alia, the incorrect name of Sandra Blumberg. Petitioners maintained that six to nine months elapsed between their writings and the State's replies.

5. Following a pre-hearing conference with the Tax Appeals Bureau, the Audit Division revised the amount of tax due from petitioners to \$302.59, plus interest of \$202.48, for a total of \$505.07. Petitioners paid the revised tax due; however, they refused to pay the interest on the grounds that the delay in

resolving the matter was caused by the Audit Division in not timely responding to their letters.

CONCLUSIONS OF LAW


A. That there is no provision in the **Tax** Law or the City Administrative Code which permits interest charges to be waived, abated or cancelled. Accordingly, petitioners are liable for the payment of interest.

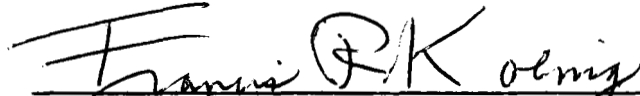
B. That the petition of Bertram Blumberg and Ann Blumberg is denied and the notices of deficiency issued April 5, 1984 and April 12, 1984, as revised, are sustained, together with such additional interest as may be lawfully due and owing.

DATED: Albany, New York

STATE TAX COMMISSION

MAY 26 1987

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER