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*Income Tax Determinations*  
BUREAU OF LAW

MEMORANDUM

*A-2*  
*Flanagan, Kathleen*

TO: Commissioners Murphy, Macduff and Conlon

FROM: Francis V. Dow, Hearing Officer

SUBJECT: In the Matter of the Application of Kathleen Flanagan (Leary) for Revision or Refund of Personal Income Taxes under Article 16 of the Tax Law for the Year 1957

A hearing with reference to the above matter was scheduled to be heard before me at 80 Centre Street, New York, New York on November 15, 1966. The taxpayer defaulted in appearance. I telephoned the taxpayer's husband and representative, Gene J. Flanagan, and was advised by him that he could not appear for the hearing at that time. The hearing was rescheduled to be held on January 16, 1967. Again the taxpayer defaulted.

The issue involved herein is whether the taxpayer made a timely application for revision or refund of personal income taxes and assessment for the year 1957. The assessment (Assessment No. B 767327) was issued on March 28, 1960 assessing additional normal tax due in the sum of \$79.63. The taxpayer alleged in her application that her claim should be allowed because mail addressed to her was received by her elderly mother but due to her senile condition she tended to dispose of the mail believing it to be advertisements or the like. The taxpayer's application for revision, dated May 15, 1961, but was not filed with the Department of Taxation and Finance until July 14, 1961, was both dated and filed more than one year after the issuance of the assessment.

For the reasons stated above, I recommend that the determination of the State Tax Commission in this matter be substantially in the form submitted herewith.

/s/

FRANCIS V. DOW

Hearing Officer

FVD:lb *19/*  
February 2, 1967

*(Feb. 6, 1967)*

**STATE OF NEW YORK  
STATE TAX COMMISSION**

**IN THE MATTER OF THE APPLICATION  
OF  
KATHLEEN FLANNAGAN (LEAST)**

**FOR REVISION OR REFUND OF PERSONAL  
INCOME TAXES UNDER ARTICLE 16 OF  
THE TAX LAW FOR THE YEAR 1957**

Kathleen Flanagan (Leary) having filed an application for revision or refund of personal income taxes imposed under Article 16 of the Tax Law for the year 1957 and a hearing having been scheduled in connection therewith at the office of the State Tax Commission, 20 Centre Street, New York, New York, before Francis V. Dow, Hearing Officer, of the Department of Taxation and Finance, and the taxpayer having defaulted on the hearing, the matter, at the request of the taxpayer's representative, was rescheduled to be heard on January 10, 1961 and the taxpayer again having defaulted, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer filed a New York resident tax return for the year 1957, in which she claimed deductions for automobile expenses in the sum of \$1,502.50.

(2) That on March 28, 1960 a notice of assessment of additional income tax was issued for the year 1957 (Assessment No. B 707127) disallowing the deduction claimed for automobile expenses and assessing additional tax in the sum of \$79.61; that on July 14, 1961, more than one year from the date of the issuance of the assessment, the taxpayer filed an application for revision or refund of personal income taxes.

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Based upon the foregoing findings, the State Tax Commission hereby

**DETERMINES:**

(A) That the taxpayer failed to file a timely application for revision or refund of income taxes for the year 1937 as required by section 374 of the Tax Law; that accordingly the additional taxes assessed against the taxpayer for the year 1937 under Article 16 of the Tax Law are correct and are legally due and owing together with interest and other statutory charges and that the same are hereby denied.

Dated: Albany, New York this 6th day of March, 1937.

**STATE TAX COMMISSION**

/s/

JOSEPH H. MURPHY  
**PRESIDENT**

/s/

JAMES R. MACDUFF  
**COMMISSIONER**

/s/

WALTER MACLYN CONLON  
**COMMISSIONER**