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MEMORANDUM

Income Tax Determinations
A-2
Goldstein, Arthur J.

TO: State Tax Commission

FROM: Francis V. Dow, Hearing Officer

SUBJECT: ARTHUR S. GOLDSTEIN

**Application for Revision or Refund
of Personal Income Taxes Under
Article 16, and Unincorporated
Business Taxes Under Article 16-A
of the Tax Law for the Year 1956**

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 18, 1966 and December 20, 1967. The taxpayer defaulted in appearance on both occasions.

The issue involved herein is whether the taxpayer made a timely application for revision or refund of personal income taxes assessed for the year 1956. The assessment (Assessment No. B-702687) was issued on December 9, 1959 which assessed additional normal and unincorporated business taxes due in the sum of \$521.89. At the preliminary hearing, taxpayer's representative alleged that he was responsible for the late filing of the application and contended that where a taxpayer's representative fails completely to perform the services for which he was hired, the statute of limitations contained in Section 374 would not apply to the taxpayer. The taxpayer's application for revision was not filed with the Department of Taxation and Finance until November 13, 1962, 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 denying the taxpayer's application in this matter be substantially in the form submitted herewith.

/s/

FRANCIS V. DOW

Hearing Officer

FVD:dv

Enc.

January 29, 1968

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION

OF

ARTHUR S. GOLDSTEIN

FOR REVISION OR REFUND OF PERSONAL
INCOME TAXES UNDER ARTICLE 16, AND
UNINCORPORATED BUSINESS TAXES UNDER
ARTICLE 16-A, OF THE TAX LAW FOR
THE YEAR 1956

The taxpayer, having filed an application for revision or refund of personal income taxes assessed under Article 16 of the Tax Law and unincorporated business taxes assessed under Article 16-A of the Tax Law and the matter having been scheduled for a hearing on November 18, 1966 and December 20, 1967 at the office of the State Tax Commission, 80 Centre Street, New York, New York before Francis V. Dow, Hearing Officer of the Department of Taxation and Finance and the taxpayer having failed to appear and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer filed New York resident income tax and unincorporated business tax returns for the year 1956 in which he claimed travel and auto expenses of \$2,788.52 and entertainment expenses of \$2,172.00.

(2) That on December 9, 1959, a notice of assessment of additional income tax was issued for the year 1956 (Assessment No. B-702687) disallowing the deductions claimed for travel and auto expenses and entertainment expenses and assessing additional tax in the amount of \$521.89; that on November 13, 1962, more than one year from the date of the issuance of the assessment, the taxpayer filed an application for revision or refund of the

personal income and unincorporated business taxes assessed for the year 1956.

Based upon the foregoing findings, the State Tax Commission hereby

DETERMINES:

That the taxpayer failed to file a timely application for revision or refund for income taxes for the year 1956 as required by Section 374 of the Tax Law; that accordingly, the additional taxes assessed against the taxpayer for the year 1956 under Articles 16 and 16-A of the Tax Law are correct and are legally due and owing together with interest and other statutory charges and the taxpayer's application for revision or refund be and the same is hereby denied.

Dated: Albany, New York this 13th day of February , 1968.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

PRESIDENT

/s/

A. BRUCE MANLEY

COMMISSIONER

COMMISSIONER