

STATE OF NEW YORK
STATE TAX COMMISSION

Income Tax Return
A-2
Alpert Philip & Louise

In the Matter of the Petition

of

PHILIP & LOUISE ALPERT

For a Redetermination of a Deficiency or
a Refund of PERSONAL INCOME
Taxes under Article(x) 16 of the
Tax Law for the (Year(s) 1959

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Patricia Conley, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 27th day of October, 1969, she served the within
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon Mr. Philip Alpert

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Philip Alpert, 303 West 66th Street,
Apartment 9E West, New York, New York 10023

and by depositing same enclosed in a postpaid properly addressed wrapper in a
(~~post office or official depository~~) under the exclusive care and custody of
~~XXXXXXXXXX~~
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the ~~(representative~~
~~of)~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~(representative of the)~~ petitioner.

Sworn to before me this

28th day of October, 1969.

Grace E. Pritchard

Patricia Conley

To. Mr. Rook

To be submitted to Commission for
signature, upon your approval.

October 2, 1969

NGW:pw

Philg & Lancia Agent
CR

From Nigel G. Wright

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
PHILIP & LOUISE ALPERT	:	DETERMINATION
For Refund of Personal Income	:	
Tax under Article 16 of the	:	
Tax Law for the year 1959	:	

The taxpayers having filed an application dated September 22, 1962 pursuant to tax law §374 for refund of personal income tax imposed by Article 16 of the Tax Law for the year 1959 and such application having been denied and a hearing thereon having been duly demanded and held before Nigel G. Wright, Hearing Officer and the record having been duly examined and considered,

The State Tax Commission hereby

FINDS:

(1) The sole questions in this case are the timeliness of the application for refund and the legal power of the Department to accept separate returns filed by the taxpayer and his wife in lieu of the joint return originally filed.

(2) The taxpayers filed a joint return on form IT-201 for the calendar year 1959. This was filed on or before April 15, 1960.

(3) Each taxpayer later filed a separate return on form IT-201 for the calendar year 1959. These were filed on or about September 12, 1962.

(4) The application for revision or refund was filed on September 22, 1962 and requests the refund of \$80.32 by reason of filing separate returns rather than a joint return.

Upon the foregoing findings the State Tax Commission,

DETERMINES:

(A) The application for refund was ineffective because filed later than the two years subsequent to the filing of the return (Tax Law §374, 20 N.Y.CRR 270.22 (c)).

(B) The time for filing the 1959 returns of both of the taxpayers expired on April 15, 1960 (Tax Law §371; 20 NYCRR 270.13 (a)).


(C) By a regulation of the State Tax Commission, separate returns may not be filed if a joint return has already been filed and the time for the filing of returns has expired (20 NYCRR 270.1 (b)). Such regulation is reasonable and binds the Department of Taxation and Finance.

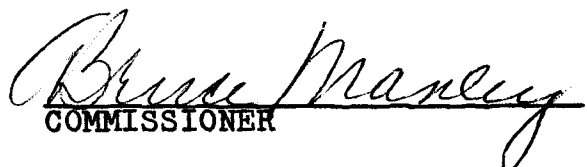
(D) The application for refund was properly denied as untimely and the demand for a hearing with respect thereto is denied.


DATED: Albany, New York

23rd, October, 1969.

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER