

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
: of :  
MAX H. HIXON :  
: For a Redetermination of a Deficiency :  
or a Refund of Personal Income :  
Taxes under Article(s) 16 of the Tax :  
Law for the year(s) 1947 :

Affidavit of Mailing  
of Notice of Decision,  
by Registered Mail

State of New York  
County of Albany

Patricia Whitman , being duly sworn, deposes and  
says, that she is an employee of the Department of Taxation and  
Finance, and that on the 5<sup>th</sup> day of August , 1969, she served  
the within Notice of Decision (or of "Determination") by registered  
mail upon Mr. Max H. Hixon  
the petitioner in the within proceeding, by enclosing a true copy  
thereof in a securely sealed postpaid wrapper addressed as follows:  
Mr. Max H. Hixon, 230 West End Avenue, New York, N.Y.  
and by delivering the same at Room 214a, Building 8, Campus, Albany,  
marked "REGISTERED MAIL" to a messenger of the Mail Room, Building  
9, Campus, Albany, to be mailed by registered mail.

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

Sworn to before me this  
5th day of August , 1969.


Grace E. Pritchard

Patricia Whitman

STATE TAX COMMISSION  
To.....

Signatures needed on two copies of this  
determination.

*have Nigel  
sign memo  
otherwise*



7/14/69

From Edward Rook :

To..... Mr. Rook .....

To be submitted to Commission,  
signature needed on 2 copies  
of determination, upon your  
approval.

July 11, 1969

NW:lh

From Nigel G. Wright

## DEPARTMENT OF TAXATION AND FINANCE


## MEMORANDUM

TO: Mr. Edward Rook  
FROM: Mr. Nigel G. Wright  
SUBJECT: Max H. Hixon

DATE  
OFFICE Hearing Unit

This file may be submitted to the Commission for signature if you approve.

I have added language to Mr. Molineaux's draft to obviate any question concerning retroactivity. The date of the Federal determination is supported by the April 17, 1957 letter to taxpayer in evidence as exhibit C. The application of the 1949 amendment to prior taxable years where the final Federal determination is after 1949 is probably clear enough in the statute itself but in any event is fully supported by memos in the Law Bureau's legislative file submitted by the State and City Bar Associations.

  
NIGEL G. WRIGHT  
Hearing Officer

NGW:pw

## BUREAU OF LAW

## MEMORANDUM

TO: Commissioners Murphy, Palestin and Macduff  
FROM: Vincent P. Molineaux  
SUBJECT: MAX H. HIXON

APPLICATION FOR REVISION OR REFUND OF AN  
ASSESSMENT OF PERSONAL INCOME AND UNIN-  
CORPORATED BUSINESS TAXES FOR THE YEAR 1947

A hearing with reference to the above matter was held before me on February 17, 1965. The appearances and the evidence produced were as shown in the stenographic minutes and exhibits included in the file, which are submitted herewith.

The assessment upon which the petitioner demanded a hearing was based upon adjustments made to conform with the Federal audit. The Federal assessments were paid and the petitioner was unable to present any evidence that the assessments as issued were incorrect.

The assessment issued November 27, 1951 more than three years after the due date for filing the return for the year 1947 is authorized by sections 367 and 373 of the Tax Law which were amended effective July 1, 1949 to authorize such assessments without regard to time.

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

Vincent Molineaux by Nyabwright  
Hearing Officer

VPM:aw  
Enc.

March 15, 1965

MS.  
Approved

                      
Approved

STATE OF NEW YORK

STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION OF  
MAX H. HIXON  
FOR REVISION OR REFUND OF PERSONAL  
INCOME TAXES UNDER ARTICLE 16 OF  
THE TAX LAW FOR THE YEAR 1947

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The petitioner having filed an application for revision or refund of taxes assessed under Article 16 of the Tax Law for the calendar year 1947 and a hearing having been held before Vincent P. Molineaux, Hearing Officer, at 9 a.m. on February 17, 1965, and the record having been duly examined and considered,

The State Tax Commission finds:

(1) That the petitioner filed a personal and unincorporated business tax return for the year 1947 upon which the tax shown to be due was paid.

(2) That Assessment No. AATF20328 was issued November 27, 1951 pursuant to section 373(1) of the Tax Law based upon adjustments made to conform with the Federal audit of petitioner's income tax return for the year 1947 showing additional tax due. That a final Federal determination was not issued until after 1951 and such changes were not reported as required by section 367(2) of the Tax Law. The provisions of sections 367 and 373 of the Tax Law authorizing the issuance of assessments at any time based upon unreported changes were added by Chapter 93 of the Laws of 1949 effective July 1, 1949, and is applicable to all changes based upon Federal determinations which become final after its date of enactment.

(3) That the Federal adjustments based upon the audit for the year 1947 have been paid and no changes were made.

(4) That petitioner was unable to present any evidence that the audit and the Assessment No. AATF20328 were unauthorized or incorrect.


Upon the foregoing evidence the State Tax Commission hereby,  
DETERMINES:

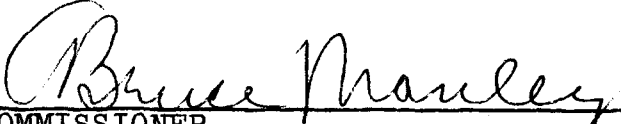
(A) The taxes and statutory charges assessed under Articles 16 and 16-A of the Tax Law for the year 1947 are correct and legally due and owing and the denial of the application for revision or refund is affirmed.

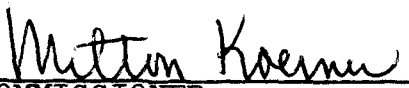
And it is so ORDERED.

DATED: Albany, New York this 25th day of July , 1969 .

STATE TAX COMMISSION

  
\_\_\_\_\_  
PRESIDENT

  
\_\_\_\_\_  
COMMISSIONER

  
\_\_\_\_\_  
COMMISSIONER