

STATE OF NEW YORK
STATE TAX COMMISSION

Income Tax Determination
Kipper, Anna &
James A.
H. 2

In the Matter of the Petition :
: of :
JAMES A. AND ANNA KIPPER, his wife :
: For a Redetermination of a Deficiency :
or a Refund of Personal Income :
Taxes under Article(s) 22 of the Tax :
Law for the year(s) 1960 - 1964 :

Affidavit of Mailing
of Notice of Decision,
by Registered Mail

State of New York
County of Albany

Lynn Horodowich , being duly sworn, deposes and
says, that she is an employee of the Department of Taxation and
Finance, and that on the 13th day of May , 1969, she served
the within Notice of Decision (or of "Determination") by registered
mail upon James A. and Anna Kipper
the petitioner in the within proceeding, by enclosing a true copy
thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. and Mrs. James A. Kipper
104 East Orchard Street
Frankfort, New York
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

14th day of May , 1969.

Laurence Newman
L.H. 5/14/69 *hearing officer*

Lynn Horodowich

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
JAMES A. AND ANNA KIPPER, his wife	:	Affidavit of Mailing
	:	of Notice of Decision,
	:	by Registered Mail
For a Redetermination of a Deficiency	:	
or a Refund of Personal Income	:	
Taxes under Article(s) 22 of the Tax	:	
Law for the year(s) 1960 - 1964	:	

State of New York
County of Albany

Lynn Horodowich , being duly sworn, deposes and says, that she is an employee of the Department of Taxation and Finance, and that on the 13th day of May , 1969, she served the within Notice of Decision (or of "Determination") by registered mail upon John J. Bono, Esq., representative for the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:
John J. Bono, Esq.
106 West Main Street
Frankfort, New York
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

14 day of May , 1969

L.H. 5/14/69

Lynn Horodowich

Lawrence Newman
hearing officer

BUREAU OF LAW

MEMORANDUM

Income Tax Determination A-Z
Kipper, Anna &
James A.

TO: State Tax Commission

FROM: Vincent P. Molineaux, Hearing Officer

SUBJECT: JAMES A. and ANNA KIPPER

**Petition For Redetermination of a Deficiency
or For Refund of Personal Income Taxes Under
Article 22 of the Tax Law for the Years 1960
through 1964**

A hearing on the above matter was held before me at 1500 Genesee Street, Utica, New York on September 16, 1964. The appearances and the evidence produced were as shown in the stenographic minutes and exhibits submitted herewith.

At issue is a claim for refund of assessments paid after being issued on a signed consent dated June 7, 1965. The deficiencies totaling \$663.76 including penalty and interest were for the years 1960, 1961, 1962, 1963 and 1964 and were based upon a cash availability survey. The claim for revision and refund appears to be a reaction to Federal assessments based upon the consent to the State assessments.

Taxpayer for the period in question was employed as a part-time meter reader by the Village of Frankfort with a salary of \$936.00 a year with the exception of 1963 when he received only \$624.00. He is an arrested tuberculosis case with one collapsed lung but his only medical requirement is an annual chest x-ray. The wife was employed as a machine operator for Sperry-Rand Corporation in Utica with income varying from \$2,800.00 to \$3,900.00. A substantial savings account shows annual interest of about \$400.00 and for three of the five years involved showed increase of approximately \$1,500.00 apart from interest, per year. The other years taxpayer spent \$1,700.00 and \$1,950.00 respectively, for new automobiles (p. 34).

Taxpayer husband was arrested in December, 1964 as a common gambler and was convicted and paid a fine.

A cash availability audit was conducted for the years 1959 through 1964 resulting in the assessments for the years 1960 to 1964 totaling \$646.64 which are under consideration.

At the hearing the taxpayer husband, the wife not being present due to ill health, disputed certain items in the cost of living estimate to which he had previously consented (State Tax Commission Exhibit 6).

Taxpayer did not dispute 14 items of expense totaling \$4,446.48 which was in excess of the total income reported for those years and do not take into account the basic items of food and clothing. Of the disputed items no substantial proof of error was offered.

Considering that the audit was an estimate and that taxpayer has presented no substantial evidence of an over-assessment, I recommend that the determination of the Commission denying the petition for redetermination be substantially as submitted herewith.

Hearing Officer

VPM:dc/gg
Enc.

February 28, 1969

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE PETITION
OF
JAMES A. AND ANNA KIPPER, his wife
FOR REDETERMINATION OF A DEFICIENCY OR
FOR REFUND OF PERSONAL INCOME TAXES UNDER
ARTICLE 22 OF THE TAX LAW FOR THE YEARS
1960 THROUGH 1964

James A. and Anna Kipper having filed a petition for redetermination of a deficiency and for refund of personal income tax under Article 22 of the Tax Law for the years 1960, 1961, 1962, 1963 and 1964 and a hearing having been held at the office of the State Tax Commission, 1500 Genesee Street, Utica, New York on the 16th day of September, 1968 before Vincent P. Molineaux, Hearing Officer of the Department of Taxation and Finance, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers filed New York resident income tax returns for the years 1960, 1961, 1962, 1963 and 1964 on which the tax shown to be due was paid.

(2) That for the period in question taxpayer, James A. Kipper, was employed as a part-time meter reader by the Village of Frankfort with a salary of \$936.00 a year with the exception of 1963 when he received only \$624.00.

(3) That the wife was employed as a machine operator for Sperry-Rand Corporation in Utica with income varying from \$2,800.00 to \$3,900.00

(4) That additional interest income of approximately \$400.00 was reported for each year.

(5) That a cash availability audit was conducted for the years in question resulting in total increased assessment for the five years of \$646.64 including penalty of five percent and interest.

(6) That 14 items of the audit were undisputed and totaled on average for each year more than the income reported by the taxpayers.

(7) That taxpayer while disputing five of the 19 items included in the estimates for each year was unable to demonstrate that the estimate was incorrect, and was unable to provide substantiation for an alternate computation.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

DECIDES:

(A) That the audit of taxpayers' income for the years 1960, 1961, 1962, 1963 and 1964 is correct.

(B) That the deficiencies as stated on Form IT-39.2 dated June 7, 1965, File No. 3758466, are correct and

(C) That the petition is denied.

DATED: Albany, New York on this 14th day of May , 1969.

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER