

STATE OF NEW YORK  
STATE TAX COMMISSION

HEARING UNIT - File Copy

TAX

Income

ART.

16/YY

SECS.

374/689

KEY WORDS

Untimely application  
FOR Revision: TAX credit  
offset to earlier years.  
CROSS REFS.

In the Matter of the Application for  
Revision of an Assessment for the Years  
1949 and 1954 and in the Matter of the  
Petition for Refund for the Year 1964  
of  
WALTER V. AND LOTA DAVIDSON  
Of Personal Income Taxes under Article  
16 and 22 of the Tax Law

CASE LAW CITATIONS

REMARKS ORDER

Mr. Harold Rothberg, as representative for the taxpayers, Walter V. and Lota Davidson, submitted an informal letter of disagreement relating to the years 1949, 1954 and 1964. The letter was accepted by the Department of Taxation and Finance as the equivalent of applications for revision of assessments for the years 1949, and 1954, and as a petition for refund for the year 1964.

A formal hearing was held in the offices of the State Tax Commission in the City of New York by Lawrence A. Newman, Hearing Officer. The taxpayer appeared through their representative, Mr. Harold Rothberg, and the Income Tax Bureau was represented by Edward H. Best, Esq. (Solomon Sies, Esq., of Counsel).

FINDINGS OF FACT:

(1) On April 1, 1952, the Income Tax Bureau issued a notice of additional assessment against Walter V. Davidson, Jr. for the year 1949 in the amount of \$38.30, numbered AA463972.

(2) On March 5, 1958, the Income Tax Bureau issued a notice of additional assessment against Stevenson, Jordan and Harrison, Inc., and/or Walter V. Davidson Jr. for the year 1954 in the amount of \$915.16, numbered B-397390.

(3) On August 25, 1965, the Income Tax Bureau issued a voucher

for the income tax refund in favor of Walter V. and Lota Davidson for the year 1964 in the amount of \$1058.56, file numbered 13450320.

(4) The amount shown to be refundable was transferred by the Income Tax Bureau and applied against the outstanding balances of taxes and interest due for the years 1949 and 1954. The entire amount of refund available was used for this purpose.

(5) On June 21, 1966, the taxpayer filed the equivalent of an application for revision of assessments for the years 1949 and 1954, under Article 16 of the Tax Law, and the equivalent of a petition for refund for the year 1964, under Article 22 of the Tax Law.

ORDER:

(A) The application for revision of assessments for the years 1949 and 1954 was filed more than one year after the notices of additional assessment, and is denied for its untimeliness.

(B) The refund for the year 1964 was granted in full by the Income Tax Bureau on August 25, 1965, and the petition for refund is denied because the relief sought has been granted.

(C) The Income Tax Bureau acted correctly under Article 22 of the Tax Law in crediting the overpayment of taxes for the year 1964 against the taxpayer's liability for the years 1949 and 1954, and the aforesaid action is hereby affirmed.

DATED: Albany, New York 20th this day of October, 1969.

Norman Galloran  
PRESIDENT

Arthur M. Moulton  
COMMISSIONER

Milton Krumer  
COMMISSIONER