

Efron, Kalman & Aimee
Personal & U.B.T.

16 - 16A

1970 A-L

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
Kalman Efron and Aimee Efron :

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

For a Redetermination of a Deficiency or
a Refund of Personal & Unincorporated
Taxes under Article(s) 16 & 16A of the
Tax Law for the (Year(s) 1956 :

State of New York
County of Albany

Claire A. Draves , 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 21st day of December , 1970 , she served the within Notice of Decision (or Determination) by (certified) mail upon Kalman Efron and Aimee Efron (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Kalman Efron and Aimee Efron
18 Kim Hunter Road
Englewood Cliffs, New Jersey
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 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
21st day of December, 1970.

Edward Cook

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Kalman Efron and Aimee Efron

For a Redetermination of a Deficiency or
a Refund of Personal & Unincorporated
Taxes under Article(s) 16 & 16-A of the
Tax Law for the (Year(s) 1956

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

State of New York
County of Albany

Claire A. Draves, 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 21st day of December, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Hyman L. Kowal, Esq.

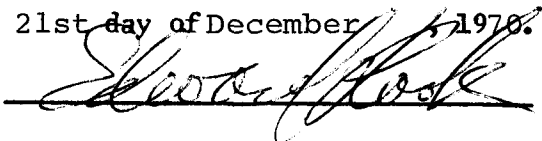
(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Hyman L. Kowal, Esq.
292 Madison Avenue
New York, New York 10017

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 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

21st day of December, 1970.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
of :
KALMAN EFRON AND AIMEE EFRON : DETERMINATION
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 :

Applicants, Kalman Efron and Aimee Efron, have filed an 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. (File #BTF825698 and AB040641) A formal hearing was held before Frank DeBellis, Hearing Officer, at the offices of the State Tax Commission, State Campus, Albany, New York on November 16, 1965 at 2:10 P.M. Applicants appeared by Hyman L. Kowal, Esq.

FINDINGS OF FACT

1. Applicant, Kalman Efron, filed a New York State Income Tax Resident Return for the period January 1, 1956 to April 7, 1956, a New York State Income Tax Non-Resident Return for the period April 8, 1956 to December 31, 1956, and a New York State Unincorporated Business Tax Return for the year 1956.

2. On January 30, 1961, the Income Tax Bureau issued a notice of additional assessment against applicants imposing additional income tax and unincorporated business tax upon the income received by applicant, Kalman Efron, for the year 1956 in accordance with the federal audit of their 1956 Federal Income Tax Return and upon the ground that the allocation of business

income was improper because he had no other office outside of New York and assessed additional income tax and unincorporated business tax against them in the sum of \$298.19.

3. On December 22, 1962, the Income Tax Bureau issued another notice of additional assessment against applicants imposing additional income tax and unincorporated business tax upon the income received by applicant, Kalman Efron, for the year 1956 upon the ground that no allocation was permitted and therefore that his total business income was subject to normal and unincorporated business tax and assessed additional income tax and unincorporated business tax against them in the sum of \$1,676.94.

4. Applicant, Kalman Efron, omitted from gross income in his 1956 income tax and unincorporated business tax returns amounts which should have been included therein in excess of 25% of the gross income so stated.

5. The adjustment of applicants tax liability in accordance with the federal audit of their 1956 tax return was conceded by them.

6. Applicant, Kalman Efron, did not maintain an office or place of business in his home in New Jersey. His principal office and place of business was located at 325 West 45th Street, New York, New York.

7. On August 4, 1958, the Income Tax Bureau issued a letter permitting Kal Efron (partnership) to allocate in 1952 partnership sales based upon the situs where the sales were made in connection with a souvenir program for "Gentlemen Prefer Blondes".

8. Applicant, Kalman Efron, during the year 1956 published souvenir play bill programs for "Broadway" shows playing in New York and on the road. He entered into contracts with the producers of the shows which gave him the right to sell the souvenir book in the lobbies

of theatres where the shows were playing. Both the producer and the theatre received a percentage of the gross sales. In New York State the programs were sold by his employees. Outside of New York State the programs were sold by independent agents who received a percentage of the sales as a commission. Other than the sales by the independent agents, everything in connection with his business activities were done in New York State.

CONCLUSIONS OF LAW

A. That no portion of the net income earned by applicant, Kalman Efron, during the year 1956 from the sale of souvenir programs was derived from business activities carried on without New York State and he was therefore not entitled to an allocation of net unincorporated business income in accordance with the meaning and intent of Section 386-g of the Tax Law.

B. That all of the net business income earned by applicant, Kalman Efron, from the sale of souvenir programs during the portion of the year 1956 that he was a non-resident was derived from a business wholly carried on within New York State and therefore the net income therefrom was subject to personal income tax in accordance with the meaning and intent of Section 351 of the Tax Law.

C. That applicants' omissions from their 1956 income tax and unincorporated business tax returns, which were filed October 15, 1967, of amounts in excess of 25% of the gross income so stated, permitted an assessment of additional tax due within six years after the date of the filing of the return in accordance with the meaning and intent of Section 373(i) of the Tax Law.

D. That the Income Tax Bureau's letter permitting Kal Efron (partnership) to allocate 1952 partnership sales was not Res-Judicata to a determination by it on similar facts, that applicant, Kalman Efron, was not permitted to allocate sales made in 1956 by independent agents outside of New York State.

E. That the adjustment of applicants' taxable income to conform with the audit of their Federal Income Tax Return was properly made.

F. That the application of Kalman Efron and Aimee Efron is denied and the notices of additional assessments dated January 30, 1961 and December 22, 1962 are sustained.

DATED: Albany, New York
December 21, 1970

STATE TAX COMMISSION

Thermon Gallivan

COMMISSIONER

COMMISSIONER

Milton Koehn

COMMISSIONER

STATE OF NEW YORK
Department of Taxation and Finance

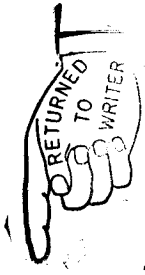
STATE CAMPUS
ALBANY, N. Y. 12226

Room 219
BLDG 9
7A

Hyman L. Kowal, Esq.

NEW YORK, NEW YORK
292 Madison Avenue

New York, New York 10017



Moved, left no address

No such number

Moved, not forwardable

Moved, not forwardable

Addressee unknown

WVW

BUREAU OF LAW
MEMORANDUM*Efron, Kalman Aines*
16-16A

TO: Louis Ettlinger

FROM: James Scott

SUBJECT: **Kalman and Aines Efron**
Determination of the State Tax Commission
dated December 21, 1970

Articles 16 and 16-A - 1956

Attached is a memorandum of Edward Beck, dated March 17, 1971, stating that the Tax Commission agreed to reduce the interest by one-half provided the taxpayer agree to forgo an Article 78 proceeding. The memorandum further states that the taxpayer has agreed to the condition and that the "bill be sent to him".

The Income Tax Bureau and Hearing Unit files are forwarded herewith in order that your office may process same.

This matter will be reflected on our records as a closed case....

Associate Attorney

JW:lk
Enc.

March 18, 1971

MEMORANDUM

TO: Mr. James Scott
FROM: Mr. Rook
SUBJECT: Kalman & Aimee Efron

The applicant's representative, Mr. Schwartzbard, contacted Commissioner Gallman last week to request copies of the applicant's tax returns in preparation for an Article 78. He also complained of the interest which has resulted from the lapse of time.

Commissioner Gallman, Manley and Koerner agreed to reduce the interest by one-half provided the taxpayer agreed to forego the Article 78. This was agreed to by Mr. Schwartzbard, acting for the taxpayer.

Please arrange to accept payment on this basis.

Mr. Schwartzbard requests that the bill be sent to him.



Edward Rook
Secretary to the
State Tax Commission

RECEIVED
DEPARTMENT OF
TAXATION AND FINANCE
MAR 17 1971
LAW BUREAU

MEMORANDUM

TO : Mr. Rook
FROM : Commissioner Gallman
SUBJECT:

*Perms Due
1970
(201) 624-6300
Ehron*

16-A

Will you please review promptly the attached from Mr. Schwartzbard of J. H. Cohn & Company and give me a reply. You will note that he has enclosed a power of attorney so that he is entitled to copies of the returns which I hope are still available.

Moreover, I told him we would review the interest situation in view of the fact that it was such a long period of time before the determination. Let me know what, if anything, we can do.

Additionally, please note the deadline for filing an application to review, so let's be sure we do not foreclose the taxpayers rights. Let's move on this at the earliest possible time.



Commissioner

Attachment
March 9, 1971



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226
AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

ADDRESS YOUR REPLY TO

Albany, New York

Kalman Efron and Aimee Efron
18 Kim Hunter Road
Englewood Cliffs, New Jersey

*Rec'd Dec 31, 1970
also Rec'd Dec 1, 1970
(initials)*

Please take notice of the **Determination** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **Sections 375 & 386j**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **90 Days** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

*Rec'd Dec 31 1970
also rec'd from copy Dec 24/70*

In the Matter of the Application :
of :

KALMAN EFRON AND AIMEE EFRON :

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DATED: Albany, New York
December 31, 1970

STATE TAX COMMISSION

Irving J. Gellman
COMMISSIONER

COMMISSIONER

Milton Korman
COMMISSIONER

UB. 7

Mr. James Scott

Mr. Rook

Kalman & Aimee Efron

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Edward Rook
Secretary to the
State Tax Commission

ER/mef