

BUREAU OF LAW
MEMORANDUM*Elk, Leonard*
Income Tax
1971

TO: Commissioners Gallman, Manley and Koerner

FROM: James Scott

SUBJECT: Leonard Elk

Determination of the State Tax Commission
dated December 31, 1970
Article 16 - 1952, 1953 and 1954

Mr. Etlinger of the Income Tax Bureau returned the above-cited taxpayer's file with his January 20, 1971 memorandum stating that said taxpayer has paid the basic tax of \$80.73 but desires to be excused from paying any penalty and interest.

The taxpayer, in his letter addressed to the Tax Commission, states that he is "past 65 years of age with limited income, no pension to depend on but social security and in poor health".

Under the circumstances, Commissioner Best and I recommend that all penalty and interest in this case be cancelled.

If you concur, kindly note your approval and return to me in order that the file may be returned to the Income Tax Bureau for closing.

J. Scott

Associate Attorney

JS:lk
Enc.

cc: John Donovan, Assistant Director
Louis. Etlinger

January 26, 1971

Approved 2/8/71
Manley

Approved
Martin Koerner 2/1/71

Approved
2/25/71

STATE OF NEW YORK
STATE TAX COMMISSION

Elk, Leonard
Personal Income
16
= 1971

In the Matter of the Petition

of

Leonard Elk

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) 1952, 1952 & 1954

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

State of New York
County of Albany

Martha Funaro , 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 4th day of January , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Leonard Elk

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Leonard Elk
150 West End Avenue
Brooklyn, New York

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

4th day of January , 1971

Linda Wilson

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
LEONARD ELK	:	DETERMINATION
for a Revision or Refund of Personal	:	
Income Taxes under Article 16 of the	:	
Tax Law for the Years 1952, 1953, and	:	
1954	:	

Leonard H. Elk applied for a revision of personal income taxes for the years 1952, 1953 and 1954. A formal hearing was held in the offices of the State Tax Commission, 80 Centre Street, New York, New York, on October 9, 1969.

Leonard H. Elk appeared pro se, and the Income Tax Bureau was represented by Edward H. Best, Esq. (Albert J. Rossi, Esq. of counsel).

FINDINGS OF FACT

1. The petitioner did not file an income tax return for the years 1952, 1953 and 1954.
2. On January 13, 1961, a notice of assessment was issued under assessment # BTF817512 for the years 1952, 1953 and 1954. The assessment was issued on a determination of income by the Federal Government, employing cost of living as a method of ascertaining income. Petitioner filed timely application for revision of the assessments.
3. The petitioner testified personally to his financial condition, losses from the operation of a luncheonette and his eventual bankruptcy. On cross examination petitioner admitted various items of cost of living. By way of defense the petitioner testified to his bankruptcy and the incurring of personal and business debts which reduced the amount of cost of living attributable to taxable income.

4. The petitioner's gross income was \$4,830.00 for the years 1952; \$5,080.00, 1953 and \$5,330.00, 1954. This income was from the operation of the luncheonette and related activities and takes into account the debts incurred, and petitioner's cost of living.

5. The failure to file was not excusable.

DETERMINATION

A. The net tax due is redetermined to be \$19.27 for 1952; \$25.56 for 1953 and \$35.90 for 1954 for assessments # BTF817512, # BTF817513 and # BTF817514 respectively.

B. Penalties are due on said taxes.

C. Pursuant to Section 684 of the Tax Law interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York

December 31, 1978

STATE TAX COMMISSION

Norman Gellman

COMMISSIONER

COMMISSIONER

Milton Krone

COMMISSIONER