

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JAMES D. CAPRON

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) 1956.

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

State of New York
County of Albany

Rae Zimmerman , 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 1st day of March , 19 72, she served the within Notice of Decision (or Determination) by (certified) mail upon James D. Capron

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: James D. Capron
139 Schuyler Street
Boonville, 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

1st day of March , 1972.

Lynn Wilson

Kae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JAMES D. CAPRON

For a Redetermination of a Deficiency or
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Taxes under Article(s) 16 of the
Tax Law for the (Year(s) 1956

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
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State of New York
County of Albany

Rae Zimmerman, 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 1st day of March, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon William P. Christy, Jr., (Esq., representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: William P. Christy, Jr., Esq.
611 Kemper Building
Syracuse, New York 13202
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

1st day of March, 1972.

Lynn Wilson

Rae Zimmerman



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

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO

COMMISSION

ADDRESS YOUR REPLY TO

Albany, New York

March 1, 1972

**James D. Capron
139 Schuyler Street
Boonville, New York**

Dear Mr. Capron:

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

Please take further notice that pursuant to **section 375 of**
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,

L. Robert Leisner

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
JAMES D. CAPRON	:	DETERMINATION
for a Revision or Refund of Personal	:	
Income Taxes under Article 16 of the	:	
Tax Law for the Year 1956.	:	

James D. Capron applied for a revision of personal income taxes under Article 16 of the Tax Law for the year 1956.

A formal hearing was held at the offices of the State Tax Commission, Utica, New York on November 19, 1970, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by William P. Christy, Jr., Esq. and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUES

I. Does the Statute of Limitations bar the assessment against the taxpayer for the year 1956 where a voluntary federal payment was made after the federal statute had expired?

II. Did the petitioner show any error in the determination of the Income Tax Bureau for the year 1956 based on the federal change?

FINDINGS OF FACT

1. Petitioner, James D. Capron, timely filed New York State income tax returns for the year 1956.

2. A notice of determination of deficiency in income tax for the year 1956 was issued against the taxpayer on April 8, 1964, under assessment File No. FA 01835.

3. The taxpayer applied for a revision of the deficiency. He asserted that the State Statute of Limitations had run and secondly that the determination of the deficiency was erroneous.

4. The federal papers show that the year 1956, was captioned "voluntary payment". The taxpayer signed an agreement to the federal assessment. There is no evidence that the taxpayer notified the Income Tax Bureau of the federal change prior to the State field audit or assessment.

5. The taxpayer's claim that he did not receive the income in 1956, was not convincing and failed to show that the income was not as set forth in the federal papers.

CONCLUSIONS OF LAW

A. By reason of change, correction or the renegotiation of the income and the federal tax for 1956, the Statute of Limitations did not bar the Income Tax Bureau's assessment. Section 373, subparagraphs 1 and 4 of the Tax Law.

B. The taxpayer's application is denied. The deficiency and assessment are sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York

March 1, 1972

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Manley
COMMISSIONER

William Kerner
COMMISSIONER