

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

A. BERT CHABOT

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) 1964

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

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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 27th day of July , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon A. Bert Chabot

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

wrapper addressed as follows: A. Bert Chabot  
331 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

27th day of July , 1972

Lynn Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

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of  
A. BERT CHABOT  
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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 27th day of July, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Henry Magid, C.P.A.

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Henry Magid, C.P.A.  
350 Fifth Avenue  
New York, 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

27th day of July, 1972

Lynn Wilson

Martha Funaro



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

**Dated:** Albany, New York  
**July 27, 1972**

**A. Bert Chabot**  
**331 Madison Avenue**  
**New York, New York 10017**

**Dear Mr. Chabot:**

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

Please take further notice that pursuant to  
Section(s) **689** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
from 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 relative  
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

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
A. BERT CHABOT : DECISION  
for Redetermination of Deficiency or :  
for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for :  
the Year 1964. :

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Petitioner, A. Bert Chabot, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1964. (File No. 28046571). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on August 17, 1971, at 10:45 A.M. Petitioner appeared by Henry Magid, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq., (Albert J. Rossi, Esq., of Counsel).

ISSUE

Did petitioner, A. Bert Chabot, during the year 1964 receive a distributive share of income in the sum of \$17,786.42 from a partnership known as the Madison Company?

FINDINGS OF FACT

1. Petitioner, A. Bert Chabot, and his wife filed a New York State combined income tax return for the year 1964.
2. On March 25, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, A. Bert Chabot, imposing

additional personal income tax for the year 1964 upon the additional unreported distributive share of partnership income of \$17,786.42 allegedly received from the Madison Company. It also increased his taxable New York State income in the additional sum of \$556.15 which was allegedly his share of the unincorporated business tax deduction taken on the partnership return of the Madison Company. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$2,150.79.

3. A. Bert Chabot & Co., Inc. was a New York corporation. Its principal place of business was 342 Madison Avenue, New York, New York. Petitioner, A. Bert Chabot, and his wife were the sole officers, directors, and stockholders of the corporation. The corporation had engaged in the business of importing handkerchiefs prior to 1964. In 1963 it stopped importing handkerchiefs and commenced a liquidation of its inventory. On March 1, 1963, the Board of Directors of the corporation authorized petitioner, A. Bert Chabot, to become a member of a partnership to be known as the Madison Company as a nominee for the corporation. It invested \$182,700.09 in the Madison Company as of December 31, 1964. These funds had become available as a result of the liquidation of the handkerchief business. It reported said investment in the Madison Company on its 1964 U. S. Corporation income tax return and on its certified financial statement for said year. Petitioner, A. Bert Chabot, received compensation in the sum of \$12,000.00 from the corporation during the year 1964.

4. On June 11, 1963, petitioner, A. Bert Chabot, and Bernard Kestenbaum entered into a written partnership agreement forming a

partnership known as "The Madison Company". The partnership engaged in the business of buying and selling mortgages, accounts receivable and other property and financing business ventures from 1963 until 1966 when the partnership was dissolved. The place of business of the partnership was 342 Madison Avenue, New York, New York. Profits and losses were shared equally. It had ordinary income of \$35,572.84 for the year 1964. It did not make any distributions to the partners during said year. Petitioner, A. Bert Chabot, was active in the financing and managing of accounts, collections and solicitation of business. He was not compensated by the partnership for this work. He was listed as a partner on the 1964 U.S. and New York State partnership returns of the Madison Company and credited with undistributed income of \$17,786.42.

5. Petitioner, A. Bert Chabot, did not personally invest any funds in the Madison Company.

6. A. B. Chabot & Co., Inc. reported on its 1964 U.S. Corporation income tax return as "other income...partnership - Madison Co." the sum of \$17,786.32 which sum represented one half of the undistributed earned income of the Madison Company for the year 1964. It also reported said sum as income in its certified financial statement for said year.

7. The Madison Company partnership was terminated in 1966. All of the monies invested in it by A. B. Chabot & Co., Inc. were returned to the corporation together with one half of all of the earnings of the partnership from its inception to its termination.

#### CONCLUSIONS OF LAW

A. That the activities of petitioner, A. Bert Chabot, during the year 1964 as a partner of the Madison Company were in his capacity as a nominee for A. B. Chabot & Co., Inc. and not for his own account and, therefore, the share of the undistributed

profits credited to his account on the books of the partnership were chargeable for tax purposes to the corporation and not to him personally.

B. That the petition of A. Bert Chabot is granted and the Notice of Deficiency issued March 25, 1968, is cancelled.

DATED: Albany, New York

*July 27, 1972*

STATE TAX COMMISSION

*Roman Gallivan*  
\_\_\_\_\_  
COMMISSIONER

*Bruce Hawley*  
\_\_\_\_\_  
COMMISSIONER

*Milton Green*  
\_\_\_\_\_  
COMMISSIONER