

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HAROLD FINK & LOIS FINK

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

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 March , 19 72, she served the within Notice of Decision (or Determination) by (certified) mail upon Harold Fink & Lois Fink (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Harold Fink & Lois Fink
36 Brodwood Drive
Stamford, Connecticut

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 March , 1972.

Rae Zimmerman

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
HAROLD FINK & LOIS FINK
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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 March , 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Morton Reinstein (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Morton Reinstein
60 East 42nd Street
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 March , 1972.

Rae Zimmerman

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

March 27, 1972

**Harold Fink & Lois Fink
36 Brodwood Drive
Stamford, Connecticut**

Dear Sir & Madam:

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

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 Months** 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

In the Matter of the Petition :
of
HAROLD FINK AND LOIS FINK : DECISION
for Redetermination of Deficiency or
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1964. :

Petitioner, Harold Fink and Lois Fink, have 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. 13132110). 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 March 22, 1971, at 1:30 P.M. Petitioners appeared by Morton Reinstein, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq. (Albert Rossi, Esq., of Counsel).

ISSUE

I. Did the payments made by Klopman Mills, Inc. to petitioner, Harold Fink, during the year 1964, constitute items of income derived from or connected with New York sources which were attributable to an occupation carried on in New York State?

FINDINGS OF FACT

1. Petitioners, Harold Fink and Lois Fink, filed a New York State income tax nonresident return for the year 1964. On said return, they omitted from total New York income the sum of \$34,615.20 received by petitioner, Harold Fink, from Klopman Mills, Inc.

2. On September 26, 1966, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Harold Fink and Lois Fink, imposing personal income tax upon the income received by petitioner, Harold Fink, from Klopman Mills, Inc. during the

year 1964, and accordingly issued a Notice of Deficiency in the sum of \$1,850.91.

3. At the formal hearing petitioners, Harold Fink and Lois Fink's, representative stipulated that if the decision of the State Tax Commission was adverse to them on the main issue, they would withdraw their objection to the computation of personal income tax due contained in the Statement of Audit Changes dated September 26, 1966.

4. In the fall of 1962, petitioner, Harold Fink, was employed by Fabrex Corporation as out of town sales manager. In early 1963, Klopman Mills, Inc. purchased Fabrex Corporation. He was then employed by Klopman Mills, Inc. as general sales manager. His services for these corporations during these years were rendered in New York State.

5. On January 7, 1964, petitioner, Harold Fink, entered into an oral agreement with Klopman Mills, Inc., wherein his employment as general sales manager was terminated. Klopman Mills, Inc. agreed, however, that they would pay him a sum equal to his regular salary until September 30, 1964, upon condition that during said period he did not announce that he had resigned from the company, that he did not say anything derogatory about the company and that he did not actively and openly seek employment. After January 7, 1964, he did not render any services for Klopman Mills, Inc.

6. Between January 1, 1964, and September 30, 1964, petitioner, Harold Fink, received regular payments from Klopman Mills, Inc. totalling \$34,615.20. New York State and Federal income taxes and social security tax were withheld from these payments.

7. Petitioner, Harold Fink, was a resident of the State of Connecticut during the year 1964. He did not work in New York State after January 7, 1964.

CONCLUSIONS OF LAW

A. That the payments made by Klopman Mills, Inc. to petitioner, Harold Fink, during the year 1964, constituted items of income derived from or connected with New York sources which were attributable to an occupation carried on in New York State and, therefore, said payments were subject to New York State personal income tax in accordance with the meaning and intent of section 632(b)(1)(B) of the Tax Law.

B. That the petition of Harold Fink and Lois Fink is denied and the Notice of Deficiency issued September 26, 1966, is sustained.

DATED: Albany, New York
March 27, 1972

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Masley
COMMISSIONER

Milton Korman
COMMISSIONER