

POOR  
QUALITY  
THE FOLLOWING  
DOCUMENT (S)  
ARE  
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

STATE OF NEW YORK  
STATE TAX COMMISSION

---

In the Matter of the Petition

of

ERWIN J. GREEN

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) 1955

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 22nd day of November , 1972 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Erwin J. Green

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Erwin J. Green  
2742 Lantern Lane  
Audubon, Pennsylvania 19407

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

22nd day of November , 1972.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214A  
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**November 22, 1972**

**Erwin J. Green  
2742 Lantern Lane  
Audubon, Pennsylvania 19407**

**Dear Mr. Green:**

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

Please take further notice that pursuant to **section 375**  
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	:	
ERWIN J. GREEN	:	DETERMINATION
for Revision or for Refund of Personal	:	
Income Taxes under Article 16 of the	:	
Tax Law for the Year 1955.	:	

---

Erwin J. Green applied for a revision or for refund of personal income taxes under Article 16 of the Tax Law for the year 1955.

The case was submitted for determination on the material contained in the file.

ISSUE

Did the taxpayer show that the filing of the warrant by the state was barred by the statute of limitations?

FINDINGS OF FACT

1. The taxpayer, Erwin J. Green, timely filed New York State income tax returns for the year 1955.

2. A Notice of Assessment in income tax for the year 1955 was issued against the taxpayer under File No. B 587632 and a warrant filed under collection File #U-396053 and LE-008365. Because of a real estate closing, the taxpayer paid the warrant on June 17, 1970, and claimed a refund which was denied.

3. The taxpayer contended that a warrant could not be filed more than six years after the assessment.

4. It does not appear when the assessment was made or on what day the warrant was filed.

5. The taxpayer paid the warrant on June 17, 1970, under protest.

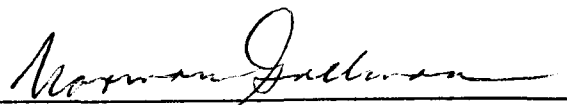
CONCLUSIONS OF LAW

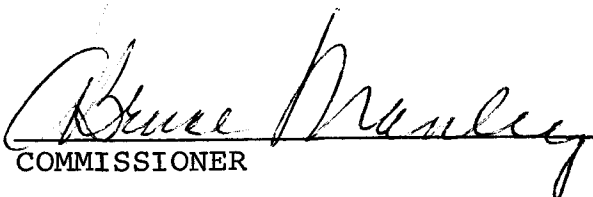
A. The tax for the year 1955 was under Article 16 of the Tax Law. There is no statute of limitations to bar collection action. Com'r. v. Whitelaw, 123 N.Y.S. 2d 677; sections 381 and 216 of the Tax Law. Moreover the dates of the assessment and warrant were not established.

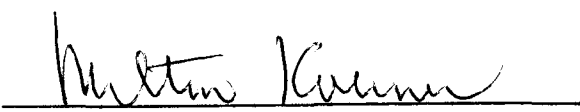
B. The application for the refund is denied.

DATED: Albany, New York  
November 22, 1972

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER