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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JACOB RASSNER

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, 1956 &  
1957

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

State of New York  
County of Albany

LYNN WILSON, 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 29th day of November, 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon JACOB RASSNER

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

Jacob Rassner  
11 Riverside Drive  
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

29th day of November, 1972.

*Lynn Wilson*  
*Joyce S. VanPatten*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JACOB RASSNER

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

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, 1956 &:  
1957

State of New York  
County of Albany

LYNN WILSON

, 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 29th day of November, 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon MILTON MILLER,

CPA

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Milton Miller, CPA  
305 Broadway  
New York, New York 10007

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

29th day of November, 1972.

*Lynn Wilson*  
*Joyce S. Van Patten*



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A  
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518  
457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**November 29, 1972**

**Mr. Jacob Rasser**  
**11 Riverside Drive**  
**New York, New York**

**Dear Mr. Rasser:**

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,

  
**Nigel G. Wright**

HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application :  
of :  
JACOB RASSNER : DETERMINATION  
for Revision or Refund of Personal Income :  
Taxes under Article 16 of the Tax Law for :  
the Years 1955, 1956 and 1957. :

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The taxpayer having filed applications pursuant to Tax Law section 374 for revision of assessments dated March 5, 1963, of personal income taxes due under Article 16 of the Tax Law for the years 1955, 1956 and 1957, and such applications having been denied and a hearing demanded and duly held before Nigel G. Wright, Hearing Officer, and the record having been duly examined and considered,

The State Tax Commission hereby

FINDS:

1. The issues are (a) the disallowance of entertainment expenses for 1956 and 1957, (b) the disallowance of automobile expenses for all three years in issue, (c) the disallowance for 1955, of losses of \$37,228.44 relating to Rassner Sports Center, Inc., (d) the classification for 1955, as a capital loss instead of as an ordinary loss of \$14,115 relating to the value of stock in Brunswick Enterprises Inc., (e) the classification for 1957, as an ordinary loss the sum of \$59,215 which had been invested in Refrigerated Shipping Corp.
2. The amounts of the assessments in issue are: 1955, \$3,248.80; 1956, \$209.17; 1957, \$851.64.
3. Taxpayer is an attorney specializing in maritime law.
4. No evidence was submitted with respect to entertainment expenses.
5. Taxpayer took deductions on his returns for the amount of 2/3 of the automobile expenses incurred by him. The notice of

additional assessment allows 1/2 of these expenses and disallows 1/2 as unsubstantiated deductions. No evidence was submitted as to the nature of these expenses or their amounts.

6. The total depreciation on the car was \$1,200 per year. Taxpayer now claims that depreciation should be allowed. No evidence was submitted as to the amount of time or the number of miles the automobile was used in the business of the taxpayer.

7. Sometime before 1952, the taxpayer made a loan of \$25,730 to his brother Henry Rassner for use in Henry's business under the name of the "Rassner Sportswear Center."

8. The sportswear business was incorporated in May, 1952, as the Rassner Sports Center, Inc. The capitalization was \$38,444. Henry Rassner received 75% of the shares. The corporation assumed debts amounting to \$9,799.48 owed by Henry Rassner to taxpayer and issued 25% of its shares to taxpayer. The taxpayer took as security for his previous loan the 75% interest of his brother in this corporation and the 100% interest of his brother in another corporation, the "A & A Bowling Shirt and Emblem Co., Inc."

9. Jacob Rassner guaranteed the debts of Rassner Sportswear Center, Inc. to its suppliers. In 1955, taxpayer paid out \$11,497.92 on these guarantees.

10. The Rassner Sports Center, Inc., had a small loss in its June 30, 1953, fiscal year and a very large loss the next year. It went bankrupt in 1955. No evidence was offered of the solvency of Henry Rassner in 1955.

11. Taxpayer asserted that the investment in Brunswick Enterprises, Inc. had been made to foster his law practice and named certain clients obtained through "introductions" from other persons associated with this business.

12. The taxpayer owned a ship, "the Challenger", purchased from the U.S. Government which he contributed in 1955 and 1956 to the Refrigerated Shipping Corporation for 100% of the stock.

Refrigerated Shipping Corporation never had a bank account.

Mr. Rassner himself paid for repairing and also converting the ship into a refrigerated vessel. Taxpayer expected no competition in the refrigerated ship venture and expected a profit therefrom.

13. The ship was lost in the Caribbean in 1955. Taxpayer received \$15,000 from the insurance company in settlement of his claim for loss of the ship. This was \$59,215 less than the taxpayer's investment in the corporation.

14. The Federal audit for 1955, disallowed the bad debt of Henry Rassner of \$25,730.92 as not proved to be worthless in 1955, it allowed the quantity payments of Rassner Sports Center, Inc. only as a short term capital loss (nonbusiness bad debt) in the amount of \$11,497.92 (\$200 more than claimed). It further allowed as a long term capital loss the worthlessness of Rassner Sports Center Stock in the amount of \$9,799.48 (this was also deducted on the State return). The loss of \$30,250 on the purchase of Brunswick stock was not proven.

Upon the foregoing findings and all the evidence in the case,  
The State Tax Commission hereby

DETERMINES:

A. The entertainment expenses are properly disallowed for failure of proof.

B. The automobile expenses which were disallowed are properly disallowed for failure of proof.

C. The losses of \$37,228.44 claimed with respect to the Rassner Sports Center, Inc. are allowable to the extent of \$11,497.92, representing payments made on the guarantee, as a bad debt deductible from normal income. The \$25,730 loan to Henry Rassner is not allowable as it was not shown to have become worthless in 1955.

D. The loss on the stock of Brunswick Enterprises, Inc. was properly classified as a capital loss there being a failure of proof that the stock was an asset used in the trade or business of taxpayer of a kind which is subject to depreciation.

E. The loss on the stock of Refrigerated Shipping Corp. was properly classified as a capital loss there being insufficient proof that the corporation can be treated as a sham.

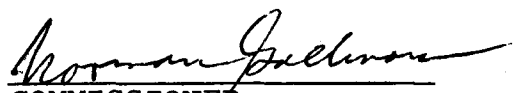
F. The assessments for 1956 and 1957, do not contain any amounts which could not have been lawfully demanded.

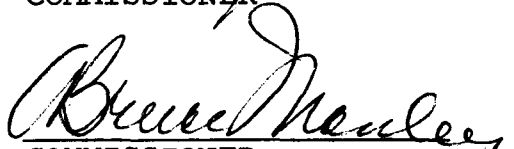
G. The application is granted with respect to 1955, and the assessment is revised to be \$2,443.94.

H. The assessments for 1956 and 1957, and the assessment for 1955, as revised above, are affirmed together with such interest and additional charges, if any, as may be due pursuant to section 376 and 377 of the Tax Law.

DATED: Albany, New York  
November 29, 1972

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER