

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ERIC R. ADLER

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) 22 of the
Tax Law for the (Year(s) 1962, 1963, :
1964 & 1965

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 8th day of November , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Eric R. Adler

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

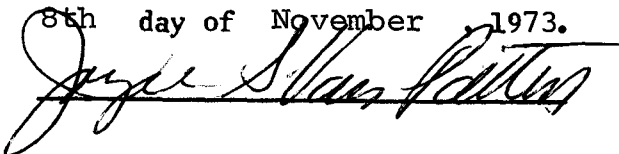
wrapper addressed as follows: Mr. Eric R. Adler
c/o Frankel, Abraham & Company
225 Broadway
New York, New York 10007

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

8th day of November 1973.





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STATE TAX COMMISSION

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Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1962, 1963
1964 & 1965

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 8th day of November , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Nathan Frankel, 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: Nathan Frankel, C.P.A.
Frankel, Hoffman & Company
225 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

8th day of November , 1973

James S. VanAllen

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

Mario A. Procaccino

~~NORMAN F. SULLIVAN, XXXX~~ ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York
November 8, 1973

Mr. Eric R. Adler
c/o Frankel, Abraham & Company
225 Broadway
New York, New York 10007

Dear Mr. Adler:

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

Please take further notice that pursuant to
Section(s) **690** 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 TAX COMMISSION

In the Matter of the Petitions :
of :
ERIC R. ADLER : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Years 1962, 1963, 1964 and 1965.

Petitioner, Eric R. Adler, has filed petitions for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1962, 1963, 1964 and 1965. (File Nos. 3-8528511 and 33029289). A formal hearing on the petitions was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, for October 19, 1972, at 2:45 P.M. At said time and place petitioner's representative, Nathan Frankel, waived a formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file together with additional documents submitted on December 27, 1972. The State Tax Commission renders the following decision after due consideration of said record.

Was petitioner, Eric R. Adler, a resident individual of New York State during the years 1962, 1963, 1964 and 1965?

FINDINGS OF FACT

1. Petitioner, Eric R. Adler, filed New York State income tax nonresident returns for the years 1962, 1963, 1964 and 1965. He reported as total New York income on said returns the salary income received by him from The Relda Trading Co., Inc. during said years. He omitted from total New York income all of his additional income reported for Federal income tax purposes. This additional income consisted principally of dividends, interest and capital gains.

2. On April 11, 1966, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Eric R. Adler, imposing New York State personal income tax upon all of his income for the years 1962 and 1963, upon the grounds that he was a resident of New York State during said years and accordingly issued a Notice of Deficiency in the sum of \$5,181.26.

3. On March 27, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Eric R. Adler, imposing New York State personal income tax upon all of his income for the years 1964 and 1965, upon the grounds that he was a resident of New York State during said years and accordingly issued a Notice of Deficiency in the sum of \$5,443.63.

4. Petitioner, Eric R. Adler, was born in Strasburg, France in 1905. He moved to the Netherlands in 1929 and shortly thereafter became a citizen of that country. He has been a citizen of the Netherlands ever since. He came to the United States as a resident alien under a permanent visa in 1940. He has maintained his resident alien status to the present time.

5. Petitioner, Eric R. Adler, traveled under a passport issued by the Netherlands Government during the years 1962 through 1965. The passport listed his domicile and residence as New York, New York.

6. Petitioner, Eric R. Adler, was employed as a vice president of The Relda Trading Co., Inc., a New York corporation during the years 1962 through 1965. He had held this position for 15 years prior to 1962. His duties of employment consisted of supervising the import and export of leather, hides and skins to and from foreign countries. He conducted his business activities on behalf of the corporation from his apartment located at 468 Herengracht, Amsterdam, Netherlands. He spent substantially all of each year in the Netherlands and Switzerland and traveling to other foreign countries. He made one trip to the United States in each of said years except 1965 when he made two such trips.

7. Petitioner, Eric R. Adler, filed Federal income tax returns as a resident alien during the years 1962 through 1965.

8. Petitioner, Eric R. Adler, retired due to illness in 1966 and returned permanently to New York State. He took up residence at 12 East 86th Street, New York, New York. He filed New York State income tax resident returns for 1966 and subsequent years.

9. Petitioner, Eric R. Adler's passport indicated that he entered New York City on December 28, 1961, and that he next entered Zurich on March 11, 1962; that he entered Boston on February 19, 1963, and that he next entered France on May 4, 1963;

that he entered New York City on February 20, 1964, and that he next entered France on May 11, 1964. He admitted entering the United States in January, 1965, although there is no entry stamp in the passport. The passport further indicated that he entered Zurich on February 25, 1965, and that he subsequently entered New York City on December 30, 1965.

10. Pursuant to section 6851(d)(1) of the Internal Revenue Code an alien may not depart from the United States until he has obtained a certificate from the Internal Revenue Service indicating that he has complied with all obligations imposed under the income tax laws. Petitioner, Eric R. Adler, obtained such certificates on March 28, 1963, March 26, 1964 and February 18, 1965.

11. Petitioner, Eric R. Adler, failed to produce documentary or other substantial evidence to prove that he spent less than 30 days in New York State during each of the years 1962, 1963, 1964 and 1965.



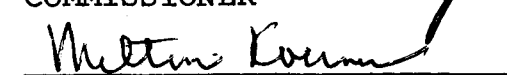
CONCLUSIONS OF LAW

A. That petitioner, Eric R. Adler, was a resident individual of New York State during the years 1962, 1963, 1964 and 1965, in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2 since he was domiciled in and spent more than 30 days in New York State during each of said years.

B. That the petitions of Eric R. Adler are denied and the notices of deficiency issued April 11, 1966 and March 27, 1967, are sustained.

DATED: Albany, New York
November 8, 1973

STATE TAX COMMISSION


COMMISSIONER

COMMISSIONER

COMMISSIONER