

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HELEN C. CAUDLE (deceased)

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) 1960 through :
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 23rd day of February , 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon Helen C. Caudle (deceased) (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Helen C. Caudle (deceased)
6801 Granada Blvd.
Coral Gables, Florida 33146
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

23rd day of February , 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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c/o Peat, Marwick, Mitchell & Co.
400 Midtown Tower
Rochester, New York 14604
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.

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23rd day of February , 1973

Lynn Wilson

Martha Funaro



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

February 23, 1973

Helen C. Gaudle (deceased)
6801 Granada Blvd.
Coral Gables, Florida 33146

Dear 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,

L. Robert Leisner

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
HELEN C. CAUDLE (deceased) : DECISION
for a Redetermination of a Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Years 1960 through 1964.

Helen C. Caudle (deceased) petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the years 1960 through 1964.

A formal hearing was held at the offices of the State Tax Commission, Rochester, New York, on July 14, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Howard Weston, C.P.A. and the Income Tax Bureau was represented by Edward H. Best, Esq. (Alexander Weiss, Esq., of Counsel).

ISSUES

(1) Did the taxpayer file a timely claim for refund, or
(2) was the taxpayer's claim for refund allowable under section 697(b) of the Tax Law although the refund claim was filed more than three years after the filing of the income tax returns?

FINDINGS OF FACT

1. Petitioner, Helen C. Caudle, timely filed New York State income tax returns for the years 1960 through 1964.

2. A denial of refund claims of personal income taxes for the years 1960 through 1964 was issued on October 28, 1968 to the taxpayer under File No. 26225231.

3. The taxpayer petitioned from the denial, requesting a hearing.

4. The taxpayer mistakenly filed resident returns for each of the years in issue, although the taxpayer moved to Florida permanently sometime before 1960 and was a nonresident. The tax returns indicated that the taxpayer lived in the County of Monroe, and were prepared by the Trust Department of the Genesee Valley Union Trust Co. and its successor, the Marine Midland Trust Company. The taxpayer, an elderly woman, signed the returns.

5. Later, on October 15, 1969, the taxpayer filed claims for refunds of taxes paid by mistake for the years 1960 through 1966, because she was a nonresident. The claims for the years 1960 through 1964 were disallowed as untimely. The 1965 and 1966 claims were allowed.

6. The taxpayer claimed there was no question of fact and the refund was allowable under section 697(d).

CONCLUSIONS OF LAW

A. The returns do not show by themselves that there is no question of fact and that a refund should be issued.

B. The taxpayer has attempted to bring facts to the attention of the Commission after the time limit for amending the returns or filing refund claims has expired.

C. The claim for refunds is barred by the statute of limitations and the denial of the refund claims is sustained.

DATED: Albany, New York
February 23, 1973

STATE TAX COMMISSION

Norman Ballman
COMMISSIONER

Bruce Maxley
COMMISSIONER

William Kneen
COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
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BUILDING 9, ROOM 214A
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HEARING UNIT

EDWARD ROOK
SECRETARY TO
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L. Robert Leisner
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12227

NOTIFIED

FEB 27 1973

S. Rahn

Helen C. Caudle (deceased)

6801 Granada Blvd.

Coral Gables, Florida

33146



PLEASE CHECK FOR
Insufficient Address
No such street
No such office in unit
Do not re-mail in this envelope



3-14

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