

POOR  
QUALITY  
THE FOLLOWING  
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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BENJAMIN SEIGEL

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)) 1954, 1955,  
1956 & 1957

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 1st. day of October, 1973, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Benjamin Seigel

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. Benjamin Seigel  
8800 Boulevard East  
North Bergen, New Jersey

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

1st day of October, 1973.

*James S. Van Patten*

*Martha Funaro*

STATE OF NEW YORK  
STATE TAX COMMISSION

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Notice of Decision (or Determination) by (certified) mail upon Richard H. Powers

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224 Beach 138th Street  
Rockaway Beach, New York

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Sworn to before me this

1st day of October , 1973.

Joseph A. Van Patten

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~~  
~~PRESIDENT~~

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

October 1, 1973

Mr. Benjamin Seigel  
8800 Boulevard East  
North Bergen, New Jersey

Dear Mr. Seigel:

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

Please take further notice that pursuant to  
Section(s) **375** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **90 Days**  
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 OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
BENJAMIN SEIGEL	:	
	:	DETERMINATION
for Revision or Refund of Personal	:	
Income Tax under Article 16 of the	:	
Tax Law for the Years 1954, 1955,	:	
1956 and 1957.	:	

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Applicant, Benjamin Seigel, has filed an application for revision or refund of personal income tax under Article 16 of the Tax Law for the years 1954, 1955, 1956 and 1957. A formal hearing was held before Martin Schapiro, Esq., Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on January 12, 1965, at 2:00 P.M. Applicant appeared by Richard H. Powers, Esq.

ISSUES

I. Should the dependency credit for the years 1954 through 1957 on behalf of applicant, Benjamin Seigel's daughter be allowed?

II. Was all the commission income earned by applicant, Benjamin Seigel, from Hayden Stone, Inc. during the years 1954 through 1957 allocable as New York State income?

III. Did applicant, Benjamin Seigel, substantiate business expenses incurred during the period from 1954 through 1957?

IV. Did applicant, Benjamin Seigel, timely file an application for revision or refund of personal income for the year 1954?

FINDINGS OF FACT

1. Applicant, Benjamin Seigel, filed New York State income tax nonresident returns for the years 1954, 1955, 1956 and 1957.

2. On March 13, 1958, the Income Tax Bureau issued a Notice of Additional Assessment against applicant, Benjamin Seigel, in the sum of \$1,283.70, disallowing the dependency credit claimed for the support of his daughter, disallowing the allocation of commission income between in-state and out-of-state services and disallowing business expenses, all deducted on his 1954 return. On October 3, 1958, February 26, 1960, and March 23, 1961, the Income Tax Bureau issued notices of additional assessments in the sum of \$1,606.64 for 1955, \$1,588.07 for 1956 and \$1,556.23 for 1957, respectively, disallowing the aforesaid deductions.

3. During the period from 1954 through 1957 applicant, Benjamin Seigel, claimed his daughter, Jane, who was older than 18 years, as a dependent. He provided her with room and board in his own house, bought all her clothes and provided her with spending money. Jane did not work during this period of time and received no support from her husband.

4. During the period from 1954 through 1957 applicant, Benjamin Seigel, was employed by Hayden Stone Inc., a stock brokerage firm, with its main office in New York City. His position was mutual fund department manager and salesman. As department manager he received a salary of \$7,800.00 per year. As a salesman he received commissions and his income from this

source depended solely upon these commissions.

5. Applicant, Benjamin Seigel, claimed that he would often travel to other states and sell securities there, in the homes of his customers.

6. Applicant, Benjamin Seigel, offered register tapes to show the commission and income earned within and without New York State for the years 1955 and 1956. However, the documents from which the tapes were derived were not available and applicant could not verify his findings.

7. Applicant, Benjamin Seigel, failed to submit documentary or other sufficient evidence to prove that he incurred the business expenses he claimed.

8. The Income Tax Bureau received applicant, Benjamin Seigel's application for revision or refund of personal income tax for the year 1954 on March 11, 1959.

#### CONCLUSIONS OF LAW

A. That applicant, Benjamin Seigel, properly claimed his daughter, Jane, as a dependency credit since she can be classified as a dependent pursuant to section 362 of the Tax Law.

B. That applicant, Benjamin Seigel, cannot allocate to sources without New York State commission income earned since the undocumented tapes were not sufficient evidence to support his claim that they were earned outside of New York State and accordingly the allocation was properly disallowed by the Income Tax Bureau.

C. That applicant, Benjamin Seigel, failed to substantiate alleged business expenses incurred during the period 1954 through 1957, since he did not submit documentary or other sufficient evidence to support his claim and accordingly the deduction was properly disallowed by the Income Tax Bureau.

D. That the application for revision or refund of personal income tax was timely filed since it was received on March 11, 1959, by the Income Tax Bureau less than one year after the recomputation was made on March 13, 1958.

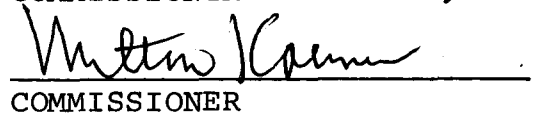
E. That the application of Benjamin Seigel is granted to the extent of allowing the dependency credit and reducing the total due in 1954 from \$1,283.70 to \$1,255.70, in 1955 from \$1,606.64 to \$1,578.68, in 1956 from \$1,588.07 to \$1,560.07 and 1957 from \$1,556.73 to \$1,528.23. Except as so granted, the application is in all other respects denied.

DATED: Albany, New York  
October 1, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

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Mario A. Procaccino,

A. BRUCE MANLEY

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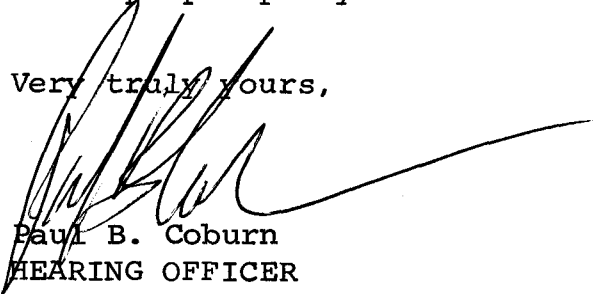
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STATE OF NEW YORK

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COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

STATE OF NEW YORK  
Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227

*1/25/73*

Mr. Benjamin Seigel  
8800 Boulevard East  
North Bergen, New Jersey

*1/25/73*

Noted late no address  
No such number  
Moved on 1/25/73  
Addressed in New  
York City  
Carrier  
Returned to sender  
if address is not  
correct