

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ANDREW J. BOHART and JANE G. BOHART

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article ~~(\*)~~ 22 of the  
Tax Law for the Year ~~(\*)~~ 1970.

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

State of New York  
County of Albany

Janet Mack , 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 19th day of July , 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Andrew J. Bohart and Jane G. Bohart ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Andrew J. Bohart  
Route 3  
Box 324  
Melbourne Beach, Florida 32951  
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)~~ ~~(\*)~~ petitioner.

Sworn to before me this

19th day of July , 1974.

*Janet Mack*

*Janet Mack*



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

DATED: Albany, New York

July 19, 1974

Mr. & Mrs. Andrew J. Bohart  
Route 3  
Box 324  
Melbourne Beach, Florida 32951

Dear Mr. & Mrs. Bohart:

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

Please take further notice that pursuant to  
Section (x) **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,

L. Robert Leisner  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ANDREW J. BOHART and JANE G. BOHART	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income	:	
Taxes under Article 22 of the Tax	:	
Law for the Year 1970.	:	

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Petitioners, Andrew J. Bohart and Jane G. Bohart, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1970.

The case was submitted for decision on information contained in the file.

ISSUE

Were certain amounts received by petitioner, Andrew J. Bohart, from the U.S. Department of Agriculture pension payments and thus exempt from personal income tax?

FINDINGS OF FACT

1. Petitioners, Andrew J. Bohart and Jane G. Bohart, timely filed New York State income tax returns for the year 1970.

2. A Notice of Determination of deficiencies in personal income taxes for the year 1970 was issued on January 28, 1974, against the taxpayers under File No. 0-53176454.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. Petitioner, Andrew J. Bohart, included in his 1970 tax returns, two withholding tax statements, one from the U.S. Department of Agriculture and the other from the Catholic Relief Services.

He claimed that the amounts received from the Department of Agriculture included pension payments, such payments not being properly taxable as income.

5. On September 14, 1971, the Internal Revenue Service sent a refund for tax overpayments for 1970 to petitioners. This refund was based upon an adjustment to "Income other than wages, dividends and interest" on Federal Form 1040. There was no Federal adjustment of wages upon which petitioners' New York tax had been computed.

CONCLUSIONS OF LAW


A. That the evidence offered by the petitioners, Andrew J. Bohart and Jane G. Bohart, does not substantiate that amounts received from the Department of Agriculture in 1970 were pension payments.


B. That all wages reported on petitioners' withholding statements from the Department of Agriculture were wages and were properly included in total New York income.

C. That the petition of Andrew J. Bohart and Jane G. Bohart is denied and the Notice of Deficiency issued on January 28, 1974, is sustained.

DATED: Albany, New York  
July 19, 1974

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER