

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

the ESTATE of J. EDWARD WALSH
and FLORENCE W. WALSH, his wife :

For a Redetermination of a Deficiency or
a Refund of ^{Personal Income and} Unincorporated Business :
Taxes under Article(s) 22 and 23 of the
Tax Law for the Year(s) 1967. :

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

State of New York
County of Albany

MARY GROFF

, 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 17th day of December , 19 75, she served the within

Notice of Decision (~~on Determination~~) by (certified) mail upon Florence W. Walsh and

the Estate of J. Edward (~~representative of~~) the petitioner in the within
Walsh

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

wrapper addressed as follows: Mrs. Florence W. Walsh
& The Estate of J. Edward Walsh
105 Woodland Avenue
Avon, New Jersey 07717

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

17th day of December , 1975

Janet Mack

Mary Groff

STATE OF NEW YORK
STATE TAX COMMISSION

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of
the ESTATE of J. EDWARD WALSH :
and FLORENCE W. WALSH, his wife :

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a Refund of ^{Personal Income and} Unincorporated Business :
Taxes under Article(s) 22 and 23 of the :
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State of New York
County of Albany

MARY GROFF

, 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 17th day of December , 1975, she served the within

Notice of Decision (~~xx Decision~~) by (certified) mail upon Robert S. Krim, CPA

(representative of) the petitioner in the within

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

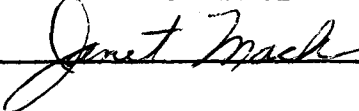
wrapper addressed as follows: Robert S. Krim, CPA
Grossman, Brown, Weinberg & Lawson, CPA
Executive Plaza South
3443 State Highway 66
Neptune, N.J. 07753

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

17th day of December , 1975.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER
(518) ~~457-3850~~
457-3850

DATED: Albany, New York
December 17, 1975

**Mrs. Florence W. Walsh
& The Estate of J. Edward Walsh
105 Woodland Avenue
Avon, New Jersey 07717**

Dear Mrs. Walsh:

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

Please take further notice that pursuant to
Section(s) **690 and 722** 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,

Nigel G. Wright

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE TAX COMMISSION

DECISION

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The record of said hearing has been duly examined and considered.

ISSUES

The issues in the case are (A) whether the petition herein was timely filed and (B) whether the gain from the sale of a stock exchange seat is taxable under the personal income tax and unincorporated business tax when made by a non-resident.

FINDINGS OF FACT

1. The notice of deficiency in this case was issued on January 28, 1973. The 90-day period for filing a petition would expire on April 28, 1973. On May 30, 1973, the accountant for petitioners inquired by mail as to the status of the case and enclosed a copy of a petition assertedly previously mailed on April 26, 1973.

2. The accountant for petitioners has complained to the United States Post Office that the mail sent from his office during the early part of 1973 was not received by the addressees.

3. By affidavits dated in June 1973, the accountant for petitioners asserts that his office had mailed a petition in this case on April 26, 1973.

4. Petitioners were at all times residents of Spring Lake, New Jersey.

5. Mr. Walsh had purchased a seat on the American Stock Exchange in 1921. He was a member of a firm of specialists on said exchange. He retired from the firm sometime in 1965 when he was about 66 years old. He sold his seat on August 31, 1967. Mr. Walsh died on June 12, 1968.

CONCLUSIONS OF LAW

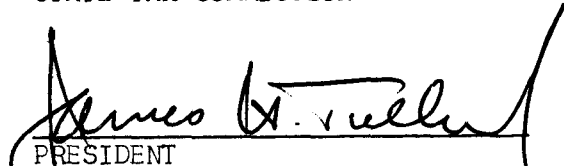
The petitioners have not carried the burden of proof that the petition herein was timely filed.

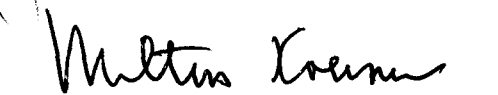
- 3 -

The deficiency in issue is due together with such interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
December 17, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER