

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HAROLD B. AND LEONORA ABRAMSON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article(s) 22 of the :
Tax Law for the Year(s) or ~~Period(s)~~ :
1960 & 1961

State of New York
County of Albany

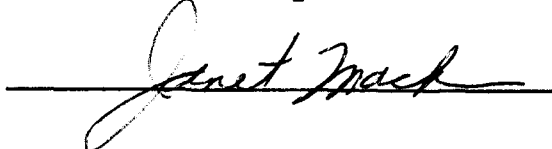
Marsina Donnini, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 15th day of July, 1977, she served the within Notice of Decision by (certified) mail upon Harold B. and Leonora Abramson ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. and Mrs. Harold B. Abramson
53 Commonwealth Avenue.
Middletown, NY 10940
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of the)~~ 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

15th day of July, 1977.


Marsina Donnini


Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
HAROLD B. AND LEONORA ABRAMSON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article(s) 16 of the :
Tax Law for the Year(s) or ~~Period(s)~~ :
1956, 1957 & 1959

State of New York
County of Albany

Marsina Donnini, 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 15th day of July, 1977, she served the within
Notice of Decision by (~~registered~~) mail upon Harold B. and
Leonora Abramson

(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. and Mrs. Harold B. Abramson
53 Commonwealth Avenue
Middletown, NY 10940

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~
~~the~~) 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

15th day of July, 1977

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

July 15, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. and Mrs. Harold B. Abramson
53 Commonwealth Avenue
Middletown, NY 10940

Dear Mr. and Mrs. Abramson

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~(x)~~ **375** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **90 days** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywat
Hearing Examiner

cc: ~~XXXXXXXXXXXXXXXXXXXX~~
~~Petitioner's Representative~~

Taxing Bureau's Representative



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

July 15, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. and Mrs. Harold B. Abramson
53 Commonwealth Avenue
Middletown, NY 10940

Dear Mr. and Mrs. Abramson

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~(a)~~ **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywaty
Hearing Examiner

cc: ~~XXXXXXXXXXXXXXXXXXXX~~ive

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
of :
HAROLD B. AND LEONORA ABRAMSON :
for Revision or Refund of Personal Income :
Taxes under Article 16 of the Tax Law :
for the Years 1956, 1957 and 1959. :

DECISION

In the Matter of the Petition :
of :
HAROLD B. AND LEONORA ABRAMSON :
for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Years :
1960 and 1961. :

Petitioners, Harold B. and Leonora Abramson, residing at 53 Commonwealth Avenue, Middletown, New York 10940, have filed a Demand for Hearing in the matter of an application for refund or revision of personal income taxes under Article 16 of the Tax Law for the years 1956, 1957 and 1959 and a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1960 and 1961. (File Nos. 13820 and 15155).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on January 25, 1977 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner, Leonora Abramson. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq., of counsel).

ISSUES

I. Whether the period of limitation has expired for the years 1956, 1957, 1959, 1960 and 1961.

II. Whether the penalties asserted for the years 1956, 1957, 1960 and 1961 are correct.

III. Whether a portion of the income reflected in the Internal Revenue Service audit for the years 1959, 1960 and 1961 was made up of nontaxable income for New York State purposes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The petitioner, Harold B. Abramson, was audited by the Internal Revenue Service for the years 1956, 1957, 1959, 1960 and 1961. The Notice of Additional Assessment dated February 15, 1972 for the years 1956, 1957 and 1959, and the Notice of Deficiency dated December 27, 1971 for the years 1960 and 1961 were based upon these audits.

2. Notices of change in taxable income by United States Treasury Department (Form IT-115) were filed for the years 1956, 1957, 1959, 1960 and 1961. The said notices (IT-115's) were unsigned and unpaid by petitioners.

3. The petitioners, Harold B. and Leonora Abramson, submitted their copies of New York State resident income tax returns for the years 1957, 1959, 1960 and 1961 which showed no tax due. The Income Tax Bureau has no record that New York State returns were filed for the years 1956, 1957, 1959, 1960 and 1961 by the petitioners.

4. The method used by the Internal Revenue Service in recomputing the petitioners, Harold B. and Leonora Abramson's income was based on the "Net Worth" method which determined that income was understated by \$13,359.76, \$12,327.08, \$22,729.43, \$14,548.96 and \$15,952.31, respectively for the years 1956, 1957, 1959, 1960 and 1961. The petitioners contend that the additional income determined by the Internal Revenue Service under this method for the years 1959, 1960 and 1961 included interest income derived from United States Series "E" bonds and United States Treasury notes, which is nontaxable under New York State Tax Law.

5. The petitioners, Harold B. and Leonora Abramson, submitted copies of Internal Revenue Service workpapers. The said workpapers noted that two of the categories of assets used in the "Net Worth" computations for the years 1959, 1960 and 1961 were "Securities (Stock and Federal Obligations)" and "United States Savings Bonds, Series E."

6. The petitioners, Harold B. and Leonora Abramson, maintain that they received interest from United States Series "E" bonds and United States Treasury notes in the sum of \$5,343.20 and \$350.00, respectively for the year 1959, \$1,623.12 and \$700.00, respectively for the year 1960 and the sum of \$1,163.59 from United States Treasury notes for the year 1961.

7. The Internal Revenue Service has determined fraud to be in evidence and has imposed the 50% penalty under section 6653(b) of the Internal Revenue Code for said years. The petitioner, Harold B. Abramson, for the year 1959 was convicted of fraud, and therefore, is not contesting the fraud penalty asserted by New York State for said year. However, he is objecting to the fraud penalties asserted for the years 1956, 1957, 1960 and 1961. The petitioner, Harold B. Abramson, agreed to and paid the assessments and fraud penalties asserted by the Internal Revenue Service for said years.

8. The petitioners did not properly report the Federal changes to New York State for said years. In addition, fraud was determined to be in evidence. Therefore, there would be no expiration of the statute of limitations on assessments in accordance with the meaning and intent of sections 367.2 and 373 of Article 16 and section 683 of Article 22 of the Tax Law.

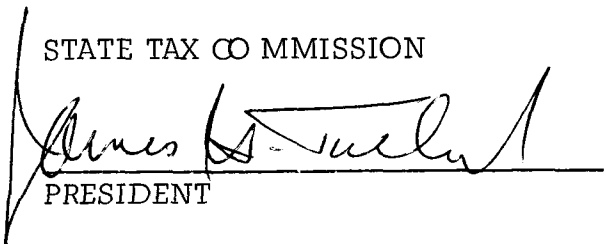
9. The various facts in the record support the conclusion that part of the deficiency was due to fraud with intent to evade tax. The petitioners never gave a valid reason for omitting aforementioned income on the New York State tax returns they alleged to have filed. The discrepancies were very substantial in amount in comparison to the income alleged to have been originally reported to New York State and the same type of omission was made for all years in question. Therefore, the penalties included in the Notice of Additional Assessment issued February 15, 1972 and the Notice of Deficiency issued December 27, 1971 were properly assessed within the meaning and intent of section 376 of Article 16 and section 685(e) of Article 22 of the Tax Law.

10. The additional income of the petitioners for the years 1959, 1960 and 1961, as determined by the Internal Revenue Service, included interest income in the sum of \$5,693.20, \$2,323.12 and \$1,163.54, respectively, from United States Treasury notes and United States Series "E" bonds. Said interest income is nontaxable for New York State purposes.

11. That the petition of Harold B. and Leonora Abramson is granted to the extent of allowing a subtraction as stated in paragraph 10 from total income for nontaxable interest income. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Additional Assessment issued February 15, 1972 and the Notice of Deficiency issued December 27, 1971 and; that except as so granted, the petitions are in all other respects denied.

DATED: Albany, New York
July 15, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER