

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARNOLD BABYATT

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) ~~1964~~ 1964.:
~~1964~~

State of New York
County of Albany

Bruce Batchelor , 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 31st day of May , 19 77, ~~she~~ served the within
Notice of Decision by (certified) mail upon Arnold Babyatt
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Arnold Babyatt
94-29 58th Avenue
Elmhurst, Queens, New York
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)~~
~~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

31st day of May , 19 77

Bruce Batchelor

Janet M. M.



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

May 31, 1977

TELEPHONE: (518) **457-1723**

Mr. Arnold Babyatt
94-29 58th Avenue
Elmhurst, Queens, New York

Dear Mr. Babyatt:

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 deci-
sion must be commenced within **4 months**
from the date of this notice.

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. They
will be referred to the proper party for reply.

Very truly yours,

Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

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

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ARNOLD BABYATT	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1964.	:	

Petitioner, Arnold Babyatt, 94-29 58th Avenue, Elmhurst, Queens, New York, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1964. (File No. 01013).

A formal hearing was held before, Edward L. Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on May 21, 1976 at 9:00 A.M. and continued on August 10, 1976 at 9:15 A.M. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq. and Solomon Sies, Esq. of counsel).

ISSUES

I. Whether the gambling gains received by the petitioner, Arnold Babyatt, in 1964 were taken in partnership, so that only a one-third interest would have been attributable to the petitioner.

II. Whether petitioner, Arnold Babyatt, substantiated gambling losses for the year 1964.

FINDINGS OF FACT

1. Petitioner, Arnold Babyatt, filed a New York State income tax return (IT-208) for the year 1964. He listed \$5,283.13 as income from gambling gains, after an adjustment for medical expenses.

2. Roosevelt Raceway, Inc., Westbury, New York, filed a New York State Information Return for calendar year 1964 (IT-2102.1). This form listed \$27,077.20 to Arnold Babyatt, as prize money from a "Twin Double".

3. On March 25, 1968, the Income Tax Bureau issued a Statement of Audit Changes against the petitioner, Arnold Babyatt, imposing additional income tax for the year 1964 of \$1,836.76, plus \$324.45 in interest, upon the grounds that his taxes were recomputed due to an increase in gambling gains and to an adjustment of the medical expense. Accordingly, a Notice of Deficiency was issued totalling \$2,161.21.

4. Petitioner, Arnold Babyatt, was a frequent visitor of race tracks during the year 1964. He did not maintain any

records of his gambling wins and losses at racetracks during the year 1964. He submitted no evidence of wins or losses other than the aforesaid "Twin Double" for the year 1964.

5. On April 16, 1964, the petitioner opened an account in the sum of \$9,025.73, at the Dollar Savings Bank of the City of New York (Number 164018) payable to Arnold Babyatt or Morris Babyatzky. On April 16, 1964, he opened another account, in the sum of \$9,025.73, at the Dollar Savings Bank of the City of New York (Number 164019) payable to Ida Suriff or Arnold Babyatt. On April 16, 1964, he opened an account, in the sum of \$9,025.74, at the Northside Savings Bank (Number 68086) payable to Morris Babyatzky or Arnold Babyatt.

6. No evidence was offered to show that anyone other than Arnold Babyatt maintained dominion and control over any of the aforesaid bank accounts.

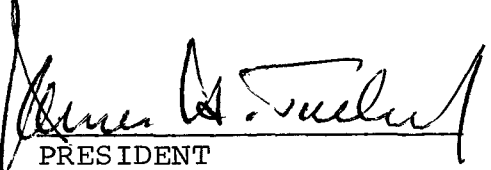
CONCLUSIONS OF LAW

A. That since no evidence was offered to substantiate deductions and no substantial evidence was offered to prove a partnership in the gambling winnings in issue, the petitioner, Arnold Babyatt, is deemed to be the sole winner of said winnings and that since he did not submit documentary or other substantial evidence of his deductions, the adjustments made by the Income Tax Bureau were proper.

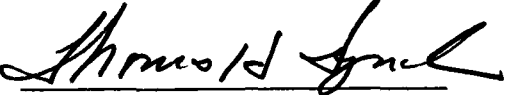
B. That the petition of Arnold Babyatt is denied
and the Notice of Deficiency issued March 25, 1968, is
sustained.

DATED: Albany, New York
May 31, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER