

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEONARD and GERTRUDE LIPTON

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article (x) 22 of the
Tax Law for the Year(s) ~~or Period(s)~~
1971 and 1972.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 31st day of May, 1977, he served the within
Notice of Decision by (certified) mail upon Leonard & Gertrude
Lipton (~~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. Leonard Lipton
35-09 Ferry Heights
Fairlawn, New Jersey 07410

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

31st day of May, 1977.

Bruce Batchelor

Janet Mack



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. & Mrs. Leonard Lipton
35-09 Ferry Heights
Fairlawn, New Jersey 07410

Dear Mr. & Mrs. Lipton:

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.

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,

Frank J. Puccia

Frank J. Puccia
Supervisor of
Small Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
LEONARD AND GERTRUDE LIPTON : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Years 1971 and 1972. :

Petitioners, Leonard and Gertrude Lipton, residing at 35-09 Ferry Heights, Fairlawn, New Jersey 07410, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1971 and 1972 (File No. 2-23236417).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on September 17, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner, Leonard Lipton, appeared pro se and for his wife, petitioner, Gertrude Lipton. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

ISSUE

Whether petitioner, Leonard Lipton, a nonresident, is entitled to allocate his distributive share of partnership income for the years 1971 and 1972 as income from sources outside of New York State.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Leonard Lipton, a nonresident of New York State, was a partner of Irving Topf and Company during the years 1971 and 1972. Irving Topf and Company's only office is located in New York City and all of its partnership income is derived from New York sources; therefore, it allocated all of its income to New York.

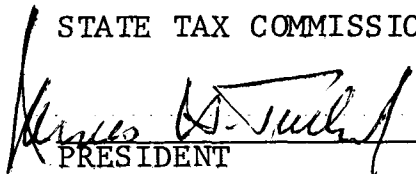
2. Petitioner, Leonard Lipton's office located in his New Jersey home is not a bona fide office of Irving Topf and Company.

3. Petitioner, Leonard Lipton, cannot allocate his distributed share of partnership income to sources outside of New York State since the partnership of Irving Topf and Company derived all of its income from New York sources, in accordance with the meaning and intent of sections 632(a)(1) and 637(a)(1) of the Tax Law and Regulation 20 NYCRR 134.1.

4. The petition of Leonard Lipton is denied and the Notice of Deficiency issued against him on February 25, 1975 is sustained.

DATED" Albany, New York
May 31, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER