

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DAVID J. and ELEANOR C. MELAMED

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)xxxPeriod(s)~~ 1969.

AFFIDAVIT OF MAILING

State of New York
County of Albany

John Huhn, 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 11 day of October, 1977, she served the within

Notice of Decision by (certified) mail upon David J. and Eleanor C.

Melamed ~~(representative of)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

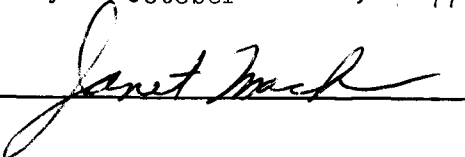
as follows: David J. and Eleanor C. Melamed
96 Circle Drive
Hastings-on-Hudson, New York 10706

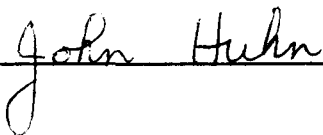
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

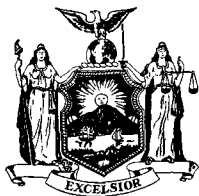
That deponent further says that the said addressee is the ~~(representative of the)~~
~~of the~~ petitioner herein and that the address set forth on said wrapper is the
last known address of the ~~(representative of the)~~ petitioner.

Sworn to before me this

11 day of October, 1977







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

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

October 11, 1977

David J. and Eleanor C. Melamed
96 Circle Drive
Hastings-on-Hudson, New York 10706

Dear Mr. & Mrs. Melamed;

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(s) **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 Chyrywat
Hearing Examiner

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
DAVID J. and ELEANOR C. MELAMED	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1969.	:	

Petitioners, David J. and Eleanor C. Melamed, residing at 96 Circle Drive, Hastings-on-Hudson, New York 10706, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1969. (File No. 00624).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 28, 1977 at 2:45 P.M. Petitioner David J. Melamed appeared pro se and for his wife. The Income Tax Bureau appeared by Peter Crotty, Esq. (Francis Cosgrove, Esq., of counsel).

ISSUES

I. What portion of petitioner David J. Melamed's distributive share of partnership income was required to be reported on his New York State, part year, personal income resident tax return?

II. What was the amount of personal exemptions reportable on the New York State, part year, personal income resident tax return?

III. Whether a resident credit for taxes paid to the District of Columbia could be claimed by petitioners on their New York State, part year, personal income resident tax return.

FINDINGS OF FACT

1. Petitioners, David J. and Eleanor C. Melamed, were residents of the District of Columbia from January 1, 1969 to July 10, 1969. Petitioner David J. Melamed was a member of a New York partnership and performed services for the partnership in its District of Columbia office. The partnership closed the District of Columbia office and petitioner moved to New York State on July 10, 1969 and continued performing services for the partnership in New York State.

2. The partnership was on a calendar year basis and filed a 1969 New York State partnership tax return (Form IT-204) in which \$37,970.00 was allocated to petitioner David J. Melamed as his share of partnership income and deductions.

3. Petitioners filed a New York State personal income non-resident return for the period January 1, 1969 to July 10, 1969 in which they reported 50% of total income and prorated exemptions

by one-half. They also filed a New York State personal income resident return for the period July 10, 1969 to December 31, 1969 in which they reported 50% of total income and prorated exemptions by one-half.

4. The Income Tax Bureau contended that only a part year resident tax return for the period July 10, 1969 to December 31, 1969 was required on which exemptions were required to be prorated by one-half and total distributable partnership income for the calendar year 1969 was reportable.

5. Petitioners filed a District of Columbia individual income tax return for the period January 1, 1969 to July 10, 1969. They reported half of their total income and paid \$718.00 tax on this amount. Petitioners contended that they were entitled to a resident credit for taxes paid to the District of Columbia.

6. Petitioners were not residents of New York State for the period in which they contended that they were entitled to said resident credit.

CONCLUSIONS OF LAW

A. That petitioner David J. Melamed's total distributive share of partnership income was reportable on the petitioners' New York State personal income resident return for the period July 10, 1969 to December 31, 1969 in accordance with the meaning and intent of section 654 of the Tax Law and 20 NYCRR 148.6.

B. That petitioners' allowable amount for exemptions was the total amount allowable for the entire year prorated by one-half.

C. That petitioners were not entitled to a resident credit for taxes paid to the District of Columbia for the period January 1, 1969 to July 10, 1969 in accordance with the meaning and intent of section 620 of the Tax Law.

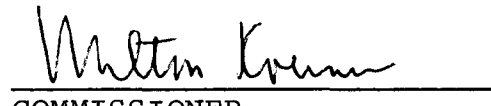
D. That the petition of David J. and Eleanor C. Melamed is denied and the Notice of Deficiency in the amount of \$1,584.39 issued February 26, 1973 is sustained.

DATED: Albany, New York

October 11, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER