

In the Matter of the Petition

of

LAWRENCE M. and MARILYN J. JOHNSON

AFFIDAVIT OF MAILING

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)~~ 1970 :
through 1973.

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that
~~she~~ he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 13th day of September , 1978 , ~~she~~ he served the within
Notice of Decision by (certified) mail upon Lawrence M. and
Marilyn J. Johnson ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Lawrence M. and Marilyn J. Johnson
108 Wager Drive
Rome, NY 13440
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)~~
~~XXXXXX~~ ~~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

13th day of September , 1978.

John Huhn

V.P. Wacker
125



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

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

September 13, 1978

Lawrence M. and Marilyn J. Johnson
108 Wager Drive
Rome, NY 13440

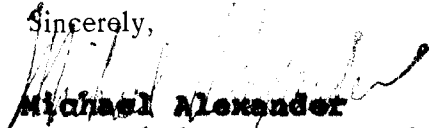
Dear Mr. & Mrs. Johnson:

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,


Michael Alexander
Supervising Tax Hearing
Officer

cc: ~~Attorney General~~

Taxing Bureau's Representative

FINDINGS OF FACT

1. Petitioner Lawrence M. Johnson retired from the United States Air Force as a Lieutenant Colonel on November 1, 1967, after more than 25 years of service.

2. Petitioners, Lawrence M. and Marilyn J. Johnson, filed New York State income tax resident returns for the years 1970 through 1973. On said returns, petitioners did not include the receipts of a Federal pension received by Lawrence M. Johnson for military service.

3. On October 29, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Lawrence M. and Marilyn J. Johnson, adjusting their gross income to include his officer's retirement pay for the taxable year 1970. Accordingly, it issued a Notice of Deficiency in the sum of \$818.79, plus penalty and interest of \$124.70, for a total of \$943.49.

4. Similarly on October 28, 1974, the Income Tax Bureau issued a Statement of Audit Changes and a Notice of Deficiency against petitioners, Lawrence M. and Marilyn J. Johnson, for the taxable year 1971 in the amount of \$934.60, plus interest of \$142.18, for a total of \$1,076.78.

5. On November 24, 1975, the Income Tax Bureau issued a Statement of Audit Changes and a Notice of Deficiency against petitioners, Lawrence M. and Marilyn J. Johnson, for the taxable years 1972 and 1973 in the amount of \$2,241.01, plus interest of \$349.29, for a total of \$2,590.30.

6. Petitioners, Lawrence M. and Marilyn J. Johnson, were residents of New York State in 1970, 1971, 1972 and 1973.

CONCLUSIONS OF LAW

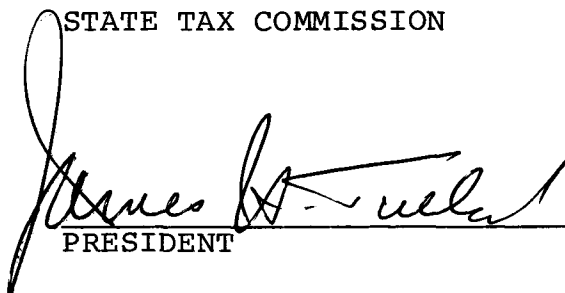
A. That a pension received for service as an officer in a branch of the United States armed forces does not constitute a pension subtracted from Federal adjusted gross income, within the meaning and intent of section 612(c)3 of the Tax Law.

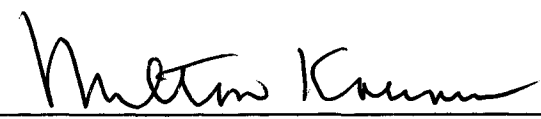
B. That the petitions of Lawrence M. and Marilyn J. Johnson are denied and the Notices of Deficiency issued October 29, 1973, October 28, 1974 and November 24, 1975 are sustained.

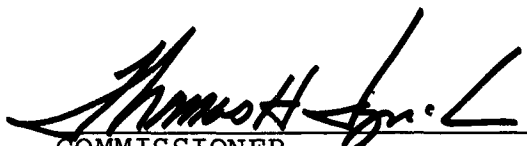
DATED: Albany, New York

September 13, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

TA-26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N. Y. 12227

TAX APPEALS BUREAU
SEP 19 1978
RECEIVED

Lawrence M. and Marilyn J. Johnson
108 Wager Drive
Rome, NY 13440

SEP 19 1978
RECEIVED

ALL DELIVERABLES TO BE
SAMPLE TO BUREAU

SEP 15 1978

CERTIFIED
No. 496575
MAIL

In the Matter of the Petition

of

LAWRENCE M. and MARILYN J. JOHNSON :

AFFIDAVIT OF MAILING

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)~~ :
1970 through 1973.

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 29th day of September , 1978, ~~she~~ served the within
Notice of Decision by (certified) mail upon Lawrence M. & Marilyn J.

Johnson (~~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. Lawrence M. Johnson
953 West Camino Guarina
Green Valley, Arizona 85614

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
29th day of September , 1978.

