

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ABRAHAM B. WEINSTEIN

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) 16 of the
Tax Law for the Year(s) ~~xxxxxx~~ 1954 :
1955 and 1957

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 24th day of April , 1978 , she served the within

Notice of Determination by ~~(XXXXXXXXXX)~~ mail upon Abraham B. Weinstein

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

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

as follows: Abraham B. Weinstein
23 Ralsey Rd South
Stamford, Connecticut

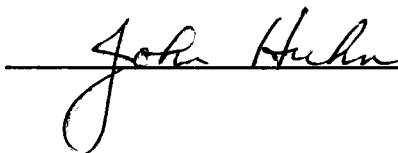
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

24th day of April , 1978.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ABRAHAM B. WEINSTEIN

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)~~ 1954 :
1955 and 1957.

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 24th day of April , 19 78, ~~she~~ served the within
Notice of Determination by ~~XXXXXXXXXX~~ mail upon Stanley Rothenberg, Esq.

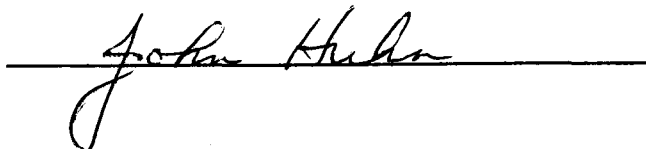
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Stanley Rothenberg
c/o Rothenberg & Sherman
475 Fifth Ave.
New York, NY 10017
and by depositing same enclosed in a postpaid properly addressed wrapper 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

24th day of April , 1978







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

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

April 24, 1978

Abraham B. Weinstein
23 Ralsey Rd. South
Stamford, Connecticut

Dear Mr. Weinstein:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **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 Chyrywaty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE TAX COMMISSION

of :

for Revision or for Refund of Personal :
Income Tax under Article 16 of the Tax :
Law for the Years 1954, 1955 and 1957. :

A small claims hearing was held before Philip Mercurio, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on August 29, 1977 at 9:15 A.M. Applicant appeared by Stanley Rothenberg, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (William Fox, Esq., of counsel).

II. Whether the legal expenses and bank charges claimed by applicant on his 1957 New York State income tax return were deductible and/or fully documented.

FINDINGS OF FACT

1. Applicant, Abraham B. Weinstein, filed New York State resident income tax returns for the years 1954, 1955 and 1957. On said returns he deducted interest and discount expenses in the amounts of \$18,468.31, \$16,050.44 and \$2,522.26, respectively. For 1957 he also deducted legal expenses in the amount of \$5,000.00 and bank charges of \$1,900.00.

2. On July 19, 1963, the Income Tax Bureau issued separate notices of additional assessment against applicant for the years 1954, 1955 and 1957, imposing additional personal income tax for said years based upon a field audit performed by the bureau. As result of the field audit, the bureau held applicant to be a nonresident and disallowed the interest and discount expenses claimed for the years 1954, 1955 and 1957 on the grounds that they were not allowable deductions for a nonresident. The bureau also disallowed certain deductions claimed by applicant on his income tax returns filed for said years which did not constitute proper deductions to a nonresident taxpayer. Applicant filed applications for revision or refund of assessments of personal income tax for the years 1954, 1955 and 1957. After the Income Tax Bureau denied such applications, applicant timely filed a demand for a hearing.

3. Applicant is not contesting the fact that he was a nonresident for the years in question, nor is he contesting the disallowances of the deductions which did not constitute proper deductions to a nonresident taxpayer for said years. However, he is contesting the disallowance of interest and discount expenses which he claimed for 1954, 1955 and 1957, and the legal expenses and bank charges which he claimed for 1957.

4. During the years in question, applicant practiced the profession of dentistry at 20 East 53rd Street, New York, New York. His practice was a specialized practice limited to full mouth reconstruction or rehabilitation in special materials, namely, porcelain baked to metal.

5. Prior to the years in question, applicant conducted research and developed methods of dealing with the retardation of pyorrhea and recurring decay. The implementation of his theories into workable techniques required the development of special new materials.

6. In 1953, applicant and his brother organized Permadent Products Company and Permadent Laboratories Company. These companies were formed to carry on the work of research, development, manufacture and sale of products.

7. In 1958 Permadent Products Company incorporated and applicant, Abraham B. Weinstein, and his brother received eighty percent of its stock and \$525,000.00 in debentures.

8. Applicant contended that in order to obtain the funds advanced to these companies, he had to borrow from individuals, banks and other financial institutions.

9. Applicant contended that the company, both before and after incorporation, was operated for the benefit of his New York dental practice and that it was Permadent Products Company's first obligation to keep him supplied with the material he required.

10. Applicant did not submit any documentary evidence regarding the money borrowed or the interest paid. Further he did not submit any documentary evidence in the form of written agreements or notes regarding the applicant's loans to Permadent Products Company.

11. Applicant did not submit any evidence pertaining to the legal expenses and bank charges claimed on his 1957 income tax return.

CONCLUSIONS OF LAW

A. That applicant, Abraham B. Weinstein, has not sustained the burden of proof required to show a) the amounts of interest and discount expenses he incurred during the years 1954, 1955 and 1957, b) that such expenses were connected with a business, trade, profession or occupation carried on within the State of New York, or c) that such expenses were otherwise deductible.

B. That applicant has not sustained the burden of proof required to show a) the amount of legal expenses and bank charges he incurred in 1957, b) that such legal expenses and bank charges were connected with a business, trade, profession or occupation carried on within the State of New York, or c) that such legal expenses and bank charges were otherwise deductible.

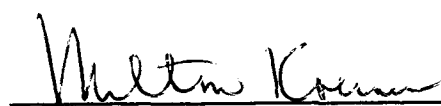
C. That the applications of Abraham B. Weinstein for revision or refund of personal income tax for the years 1954, 1955 and 1957 are denied and the notices of additional assessment issued on July 19, 1963 in the amount of \$1,268.18, \$1,151.25 and \$2,445.18, respectively, are sustained, together with such additional interest as may be lawfully owing.


DATED: Albany, New York

April 24, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER