

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HAROLD BORG

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) ~~XXXXXXX~~ :
1969 and 1970

State of New York
County of Albany

John Huhn , 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 24th day of January , 1979 , he served the within
Notice of Decision by (certified) mail upon Harold Borg
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Harold Borg
11-A Mitchell Drive
Kings Point, NY 11024
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 January , 1979.

Marilyn J. Papineau

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HAROLD BORG

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) ~~xxx Period(s)~~ :
1969 and 1970

State of New York
County of Albany

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~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of January , 1979 , ~~he~~ served the within
Notice of Decision by (certified) mail upon Murray Appleman, Esq.

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Murry Appleman, Esq.
225 Broadway
New York, NY 10007

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
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Marilyn J. Papineau

John Huhn



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

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

January 24, 1979

**Harold Borg
11-A Mitchell Drive
Kings Point, NY 11024**

Dear Mr. Borg:

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

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

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HAROLD BORG	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1969 and 1970.	:	
	:	

Petitioner, Harold Borg, 11-A Mitchell Drive, Kings Point, New York 11024, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970 (File No. 13534).

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 March 6, 1978 at 1:15 P.M. Petitioner appeared by Murray Appleman, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUES

I. Whether petitioner properly deducted amounts claimed as itemized deductions on his New York State personal income tax returns for 1969 and 1970.

II. Whether the Notice of Deficiency was timely issued with respect to 1969.

III. Whether the Income Tax Bureau properly imposed penalties pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law for 1969 and 1970.

FINDINGS OF FACT

1. Petitioner, Harold Borg, filed New York State personal income tax resident returns for 1969 and 1970. The aforesaid tax returns were both received by the Income Tax Bureau on April 27, 1971.

2. Petitioner failed to substantiate the itemized deductions claimed for 1969 and 1970. On April 12, 1974, the Income Tax Bureau issued petitioner a Notice of Deficiency, in which it allowed him the standard deduction in lieu thereof, which resulted in personal income tax of \$411.09, penalty of \$564.59 and \$80.18 in interest, for a total of \$1,055.86.

3. Petitioner did not submit documentary or any satisfactory evidence to substantiate the itemized deductions that he claimed for the years at issue.

4. Petitioner contended that the tax returns were timely filed for 1969 and 1970. He did not submit documentary or any satisfactory evidence to support his contention.

CONCLUSIONS OF LAW

A. That petitioner, Harold Borg, failed to sustain the burden of proof (in accordance with section 689(e) of the Tax Law) required to show that he properly deducted the amounts which he claimed as itemized deductions for 1969 and 1970.

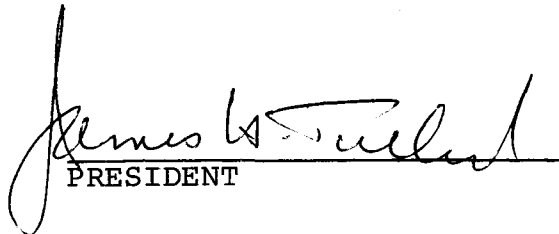
B. That with respect to 1969, the Notice of Deficiency was issued within 3 years from the date the tax return was filed; therefore, it was timely issued in accordance with the meaning and intent of section 683(a) of the Tax Law.

C. That the Income Tax Bureau properly imposed penalties pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law for 1969 and 1970. (It is to be noted that the penalty for 1969 should be \$823.78 instead of \$461.23, since sections 685(a)(1) and 685(a)(2) were in effect during said year. However, the State Tax Commission is precluded by section 689(d) of the Tax Law from asserting further penalties, since claim was not made at or before the hearing.)

D. That the petition of Harold Borg is denied and the Notice of Deficiency issued April 12, 1974 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York
January 24, 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

TO Miss Davis, REMAILED: 2/15/79

Please file. Returned unclaimed and re-
mailed regular mail.

2/15/79

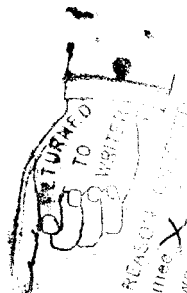
Joseph Chyrywaty

M-75 (5/76)

SMALL CLAIMS

TA-26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227



RETURNED
TO
WRITER

REASON:
Undelivered
Unknown
Insufficient address

Moved, Last known address
No such post office
No record in this area

Harold Borg
11-A Mitchell Drive
Kings Point, NY 11024

CLAIM CHECK NO.

548138

☐ HOLD

DATE

1/26/79

1ST NOTICE

JPS

2ND NOTICE

2/1

RETURN

Detached from
PS Form 3849-A
July 1977

CERTIFIED

299433

2/16

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STATE TAX COMMISSION

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and 1970.

State of New York
County of Albany

John Huhn , 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 15th day of February , 1979, ~~he~~ served the within
Notice of Decision by ~~(xxxxxx)~~ mail upon Harold Borg
~~(representative of)~~ the petitioner in the within proceeding,
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Harold Borg
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Sworn to before me this

15th day of February , 1979.

Marilyn J. Papineau

John Huhn