

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD AND ANN NAYLOR

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

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 15th day of March , 1979 , she served the within
Notice of Short Form Order by (certified) mail upon Edward and Ann Naylor

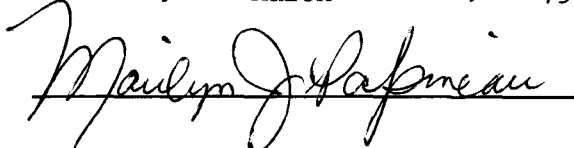
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. & Mrs. Edward Naylor
285 11th Street
Brooklyn, New York 11215

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

15th day of March , 19 79


Marilyn J. Papineau


John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD AND ANN NAYLOR

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)~~ 22 of the :
Tax Law for the Year ~~(s)~~ ~~xxxxxx~~ ~~Period(s)~~ 1972. :

State of New York
County of Albany

John Huhn, being duly sworn, deposes and says that
~~she~~ she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 15th day of March, 1979, ~~she~~ she served the within
Notice of Short Form Order by ~~(certified)~~ mail upon Brian T. Naylor
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Brian T. Naylor, Esq.
One Battery Park Plaza
New York, New York 10004
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

15th day of March, 1979.

Marilyn J. Papineau

John Huhn



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

JOHN J. SOLLECITO
DIRECTOR

STATE TAX COMMISSION

Telephone: (518) 457-1723

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

March 15, 1979

Mr. & Mrs. Edward Naylor
285 11th Street
Brooklyn, New York 11215

Dear Mr. & Mrs. Naylor:

Please take notice of the SHORT FORM ORDER of the State Tax Commission
enclosed herewith.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Berthlynn J. Davis'.

BERTHLYNN J. DAVIS
Secretary to the
State Tax Commission

Enclosure

cc: Petitioners' Representative

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
EDWARD AND ANN NAYLOR	:	
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	SHORT FORM ORDER
under Article 22 of the Tax Law for	:	
the Year 1972.	:	

Petitioners' Motion for a Default Decision upon the grounds that the Law Bureau failed to file an answer is granted in view of the fact:

That Section 601.7 Rule VII of the Temporary Rules of Practice, effective January 1, 1976, provided that 30 days after receipt, and in no event more than 150 days after the petition is served, the Law Bureau must file an answer to the petition.

That the petition herein was filed on or about March 18, 1976, however, more than two years has elapsed and the Law Bureau has never filed the required answer. Petitioners did not receive any indication of the Tax Department's intention to pursue this matter until a formal hearing was scheduled for May of 1978. Further, during this two year period, Edward Naylor, the person most familiar with the 1973 tax matter, passed away. Similiarly, Joseph Regan, Mr. Naylor's tax attorney, also passed away.

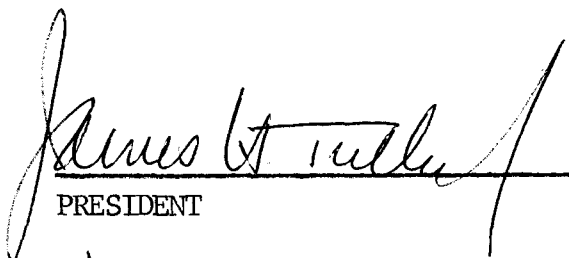
That contrary to the position advanced by the Law Bureau, Section 601.7 Rule VII of the Temporary Rules, specifically require that an answer be served, so as to "fully and completely advise the petitioner and the Commission of the defense." Absent the required answer, both the petitioner and the Commission lacks knowledge of the Law Bureau's position with respect to the issues raised in the petition.

That the Motion for a Default Decision is hereby granted, and the cross-motion to join the Estate of Edward Naylor is in all respects denied.

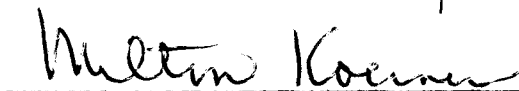
DATED: Albany, New York

March 15, 1979

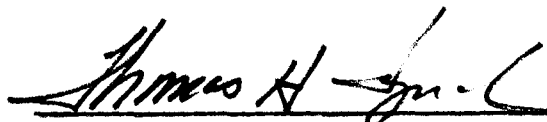
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER