

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

R. Harold & Martha Paltrow :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 16 & 22 of the Tax Law

for the Years 1959, 1960 - 1970. :

State of New York

County of Albany

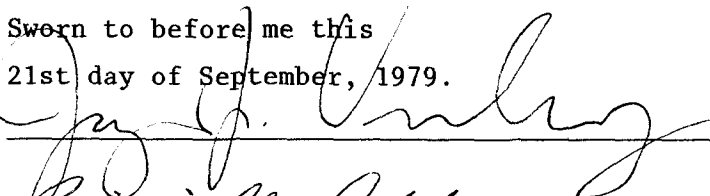
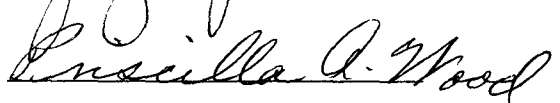
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 21st day of September, 1979, he served the within notice of Decision by certified mail upon Charles M. Leib the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Charles M. Leib
55 5th Ave.
New York, NY 10003

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
21st day of September, 1979.

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of

R. Harold & Martha Paltrow :

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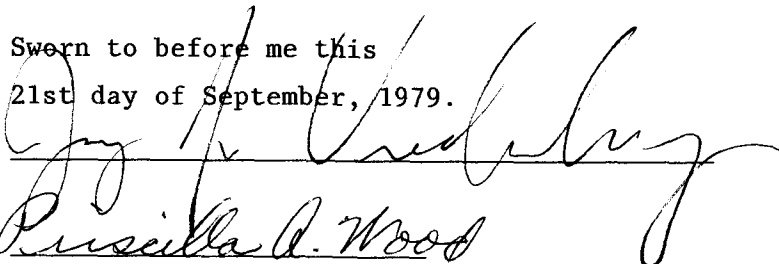

R. Harold & Martha Paltrow
35-56 222nd St.

Bayside, Queens, NY 11361

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

Sworn to before me this
21st day of September, 1979.

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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 21, 1979

R. Harold & Martha Paltrow
35-56 222nd St.
Bayside, Queens, NY 11361

Dear Mr. & Mrs. Paltrow:

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 & 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 4 months & 90 days, respectively, 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,



cc: Petitioner's Representative
Charles M. Leib
55 5th Ave.
New York, NY 10003
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
R. HAROLD PALTROW and MARTHA PALTROW : DETERMINATION
for Revision of a Determination or for Refund :
of Personal Income Tax under Article 16 of :
the Tax Law for the Year 1959. :

Applicants, R. Harold Paltrow and Martha Paltrow, 35-56 222nd Street, Bayside, Queens, New York 11361, filed a demand for a hearing for revision of a determination or for refund of personal income tax under Article 16 of the Tax Law for the year 1959 (File No. 01359).

A formal hearing was held before Neil Fabricant, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 24, 1977 at 10:30 A.M. Applicants appeared by Charles M. Leib, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Richard Kaufman, Esq., of counsel).

ISSUES

- I. Whether the application was filed timely.
- II. Whether applicants should be relieved from the imposition of penalties and interest imposed on them for their failure to file an income tax return and to pay personal income tax.

FINDINGS OF FACT

1. Applicants, R. Harold and Martha Paltrow, did not file a personal income tax return or pay personal income tax for 1959.

2. On July 20, 1971, as a result of an audit by the Special Investigations Bureau, the Income Tax Bureau issued a Notice of Additional Assessment against applicants for income taxes of \$728.56, plus penalty and interest of \$2,729.36, for a total due of \$3,457.92.

3. Applicants filed a claim for credit or refund on August 16, 1972, requesting that penalties and interest be waived.

4. The Income Tax Bureau denied the claim for credit or refund, and applicants filed a timely demand for a hearing.

CONCLUSIONS OF LAW

A. That applicants' claim for credit or refund was not filed within the time prescribed by section 374 of Article 16 of the Tax Law. Accordingly, the Income Tax Bureau's denial of refund is sustained.

B. That applicants' demand for a hearing was timely filed within the time prescribed by section 374 of Article 16 of the Tax Law. Section 572(c) of the Personal Income Tax Regulations under Article 16 of the Tax Law prohibited consideration of an application filed after the expiration of the period of limitation.

C. That the application of R. Harold Paltrow and Martha Paltrow is denied and the Notice of Additional Assessment issued on July 20, 1971 is sustained.

DATED: Albany, New York

SEP 21 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petitions	:	
	:	
of	:	
	:	
R. HAROLD PALTROW and MARTHA PALTROW	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1960 through 1970.	:	

Petitioners, R. Harold Paltrow and Martha Paltrow, 35-56 222nd Street, Bayside, Queens, New York 11361, filed petitions for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1960 through 1970 (File No. 01359).

A formal hearing was held before Neil Fabricant, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 24, 1977 at 10:30 A.M. Petitioners appeared by Charles M. Leib, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Richard Kaufman, Esq., of counsel).

ISSUES

- I. Whether the petitions were timely filed.
- II. Whether petitioners should be relieved from the imposition of penalties and interest for the years in question.
- III. Whether petitioners are entitled to a refund for personal income taxes paid for 1970, based on a recomputation of income.

FINDINGS OF FACT

1. Petitioners, R. Harold and Martha Paltrow, did not file personal

income tax returns or pay personal income taxes for the years 1960 through 1970, inclusive.

2. On January 31, 1972 as the result of a field audit, the Income Tax Bureau issued a Notice of Deficiency against petitioners imposing personal income tax for the years 1960 through 1969 in the amount of \$5,796.54, plus penalties of \$3,060.61 and interest of \$2,391.69, for a total of \$11,248.84.

3. On January 31, 1972 as the result of a field audit, the Income Tax Bureau issued a Notice of Deficiency against petitioners imposing personal income tax for 1970 in the amount of \$13,764.10, plus penalties of \$7,267.44 and interest of \$655.58, for a total of \$21,687.12.

4. On May 30, 1972, the Income Tax Bureau issued two Notice and Demand's against petitioners based on the above-mentioned notices of deficiency, since no petitions were filed.

5. On or about August 20, 1972, the Income Tax Bureau received two petitions from petitioners, one for the years 1960 through 1969 and the other for 1970. Both petitions were stamped "CLOSED DATE: Nov. 15, 1972" and noted "not timely filed".

6. During June 1974, a levy of \$28,577.15 was paid over to the Department of Taxation and Finance, upon warrants of the Tax Commission, in satisfaction of the \$13,002.25 warrant for the years 1960 through 1969. The balance of the levy (\$15,574.80) was applied to the 1970 warrant.

7. On October 22, 1975, petitioners filed a claim for credit or refund based on a recomputation of petitioners' income tax for 1970. No such claim was filed for the years 1960 through 1969.

8. On December 25, 1975, a Notice of Disallowance of petitioners' claim for refund was mailed to them. On February 10, 1976, petitioners filed a

petition for redetermination or for refund for 1970, based on the Notice of Disallowance.

9. During the entire period in question, petitioner R. Harold Paltrow was an attorney practicing in partnership with Berg J. Jensen until December 31, 1968, and practicing solely thereafter.

10. Partnership returns signed by Mr. Jensen were filed for the years 1960 through 1969.

11. Petitioner R. Harold Paltrow contended that he knew partnership returns were being filed and that the Income Tax Bureau had notice of his income. He further claimed that he intended to pay the taxes at some future date, but that he was financially pressed during the period at issue and was unable to pay the taxes when they were due.

12. During the period at issue, petitioner R. Harold Paltrow made and retained substantial investments in real property in both the United States and Canada.

13. A substantial portion of petitioner R. Harold Paltrow's income for 1970 consisted of his award for Canadian property which was expropriated in 1968, plus interest on the award.

14. For 1970, petitioner R. Harold Paltrow contended in his recomputation that he had other capital losses and carryover losses from prior years which reduced the capital gain computed on the Canadian award.

15. Petitioner R. Harold Paltrow further contended that during the year following the payment of the award, he reinvested \$48,000 or \$49,000 of the Canadian award in real property which was located in Arizona.

16. Petitioner R. Harold Paltrow did not furnish a statement or computation for his basis for the Canadian award with his claim for refund for 1970, nor

did he offer such evidence at the hearing.

17. Petitioner R. Harold Paltrow did not claim the deferral of the capital gain from the Canadian award on his claim for refund for 1970.

CONCLUSIONS OF LAW

A. That the petitions filed on or about August 20, 1972 for the years 1960 through 1969 and for 1970, were not filed within the prescribed ninety-day period set forth in section 689(b) of the Tax Law. Notice and demand which is required by section 692(b) of the Tax Law was made and, as provided for in section 692(c) of the Tax Law, warrants were issued for taxes due for the years 1960 through 1969 and for 1970. Since levies were made during June of 1974 based on these warrants, and since no claim for refund or credit was filed after the payment of tax for the years 1960 through 1969, these tax years are deemed closed.

B. That the petition filed on February 10, 1976 for 1970 was timely filed within the prescribed period set forth in section 689(c)(3) of the Tax Law.

C. That interest was properly asserted against petitioners in accordance with section 684 of the Tax Law. The Tax Law does not provide for the abatement or waiving of interest which is properly due.

D. That there is insufficient evidence under section 689(e) of the Tax Law, to support a finding of fraudulent intent to evade tax for 1970. Accordingly, the penalty imposed under section 685(e) for that year is cancelled.

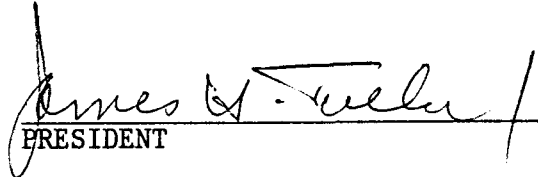
E. That petitioners failed to submit sufficient documentary or other evidence to substantiate a recomputation of income for 1970; therefore, the claim for refund is denied.

F. That the petition filed for 1970 by R. Harold Paltrow and Martha Paltrow is granted only to the extent indicated in Conclusion of Law "D" and that, except as so granted, the petition is in all other respects denied.

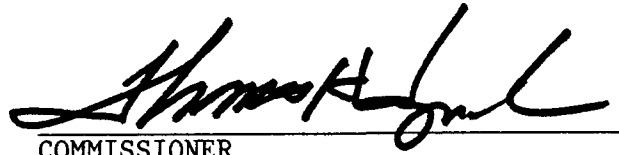
DATED: Albany, New York

SEP 21 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

to.....Paul Coburn.....

Returned unclaimed. Please file.

PALTROW, R. HAROLD and MARTHA

October 4, 1979

M-75 (5/76)

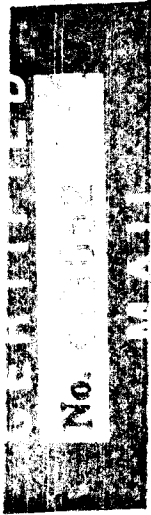
From Robert F. Mulligan

TA-26 (4-76) 25M

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

R. Harold & Martha Paltrow
35-56 222nd St.
Bayside, Queens, NY 11361

Formal.





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STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

STATE TAX COMMISSION

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
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JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 21, 1979

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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,

A handwritten signature in cursive script, appearing to read "John J. Sollecito".

cc: Petitioner's Representative
Charles M. Leib
55 5th Ave.
New York, NY 10003
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STATE OF NEW YORK

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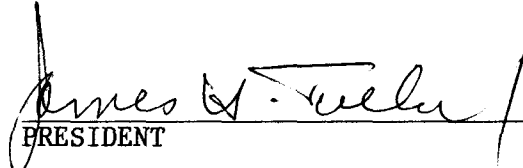
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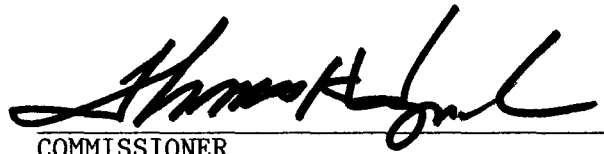
DATED: Albany, New York

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STATE TAX COMMISSION


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