

STATE OF NEW YORK
STATE TAX COMMISSION

_____ :
In the Matter of the Petition :
of :
George Brockman :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Personal Income Tax :
under Article 22 of the Tax Law :
for the Year 1971. :

AFFIDAVIT OF MAILING

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 March, 1980, he served the within notice of Decision by certified mail upon George Brockman, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

George Brockman
c/o S. J. Raiff
New York, NY 10038

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 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 March, 1980.

Joanne Knapp



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
George Brockman :

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income Tax :
under Article 22 of the Tax Law
for the Year 1971. _____ :

AFFIDAVIT OF MAILING

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 March, 1980, he served the within notice of Decision by certified mail upon Abraham Weinstein the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

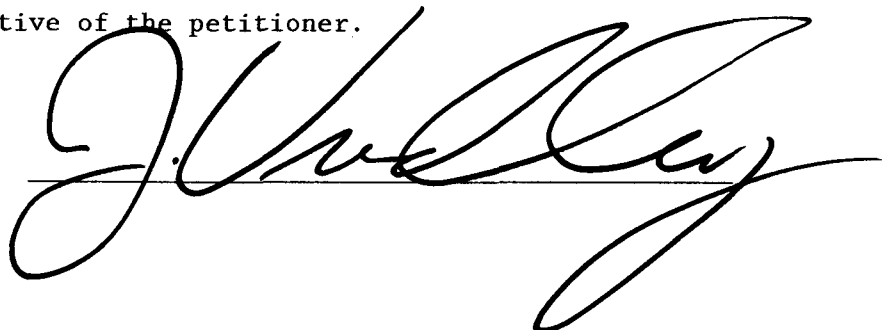
Mr. Abraham Weinstein
Belfer & Bogart, Esqs.
60 E. 42nd St.
New York, NY

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 March, 1980.

Joanne Knapp



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

March 21, 1980

George Brockman
c/o S. J. Raiff
160 Broadway
New York, NY 10038

Dear Mr. Brockman:

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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Abraham Weinstein
Belfer & Bogart, Esqs.
60 E. 42nd St.
New York, NY
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
GEORGE BROCKMAN : DECISION :
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year :
1971. :

Petitioner, George Brockman, c/o S. J. Raiff, 160 Broadway, New York, New York 10038, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1971 (File No. 20005).

A formal hearing was held before William J. Dean, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 25, 1979 at 9:15 A.M. Petitioner appeared by Belfer & Bogart, Esqs. (Abraham Weinstein, Esq., of counsel). The Income Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUE

Whether the payment to the State of Mississippi made by petitioner in 1971 for taxes due to that state for 1960 through 1967 can be taken by petitioner as a credit on his 1971 New York State income tax return.

FINDINGS OF FACT

1. On May 23, 1977, the Income Tax Bureau issued a Notice of Deficiency to petitioner asserting a deficiency of \$4,102.57, plus interest, for 1971.
2. On his 1971 New York State income tax return, petitioner claimed a credit of \$4,102.57, representing taxes paid by him to the State of Mississippi.
3. In 1971 the Mississippi Income Tax Bureau conducted an audit of petitioner's records and concluded that \$4,102.57 in taxes was due Mississippi

for 1960 through 1967. Petitioner paid this amount to the State of Mississippi in 1971.

CONCLUSION OF LAW

A. That section 620(a) of the Tax Law provides in applicable part as follows: "A resident shall be allowed a credit against the tax otherwise due under this article for any income tax imposed for the taxable year by another state of the United States..."(Emphasis added.)

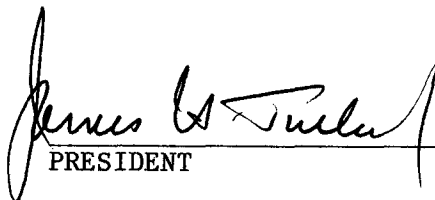
B. That petitioner is not entitled to a tax credit for the sum paid to the State of Mississippi since this sum was paid for taxes owed to the State of Mississippi for years other than the taxable year in which petitioner claimed the credit.

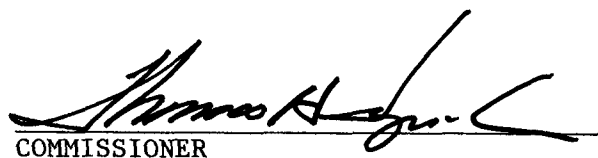
C. That the petition of George Brockman is denied and the Notice of Deficiency dated May 23, 1977 is sustained.

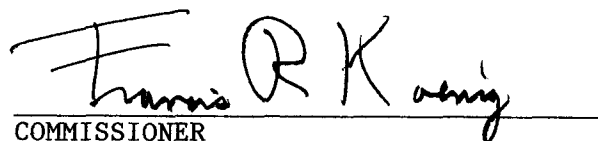
DATED: Albany, New York

MAR 21 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER