

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Robert & Rose B. Goldstein :

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 1972. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

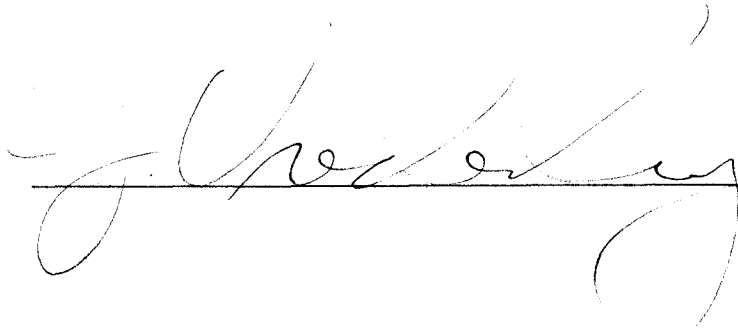
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 31st day of October, 1980, he served the within notice of Decision by certified mail upon Robert & Rose B. Goldstein, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Robert & Rose B. Goldstein
935 Prospect Pl.
Brooklyn, NY 11213
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
31st day of October, 1980.

Deborah A. Bank



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ROBERT GOLDSTEIN and ROSE B. GOLDSTEIN : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under Article :
22 of the Tax Law for the Year 1972. :

Petitioners, Robert Goldstein and Rose B. Goldstein, 935 Prospect Place, Brooklyn, New York 11213, 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 1972 (File No. 16787).

A small claims hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 23, 1980 at 2:45 P.M. Petitioner, Robert Goldstein appeared pro se and for his wife. The Audit Division appeared by Ralph J. Vecchio, Esq. Ellen Purcell, Esq., of counsel).

ISSUES

Whether petitioners are properly entitled to a foreign tax credit.

FINDINGS OF FACT

1. Petitioners, Robert Goldstein and Rose B. Goldstein, filed a joint New York State Income Tax Resident Return for the year 1972.

2. On December 12, 1975 the Audit Division issued a Statement of Audit Changes to petitioners wherein their taxable income was increased by \$2,631.00, such amount representing adjustments made to conform with the audit of petitioners' Federal income tax return. Additionally, an uncontested adjustment of \$62.16 was made to correct petitioners' modification for state and local income taxes. Accordingly, a Notice of Deficiency was issued against petitioners on August 30, 1976 asserting additional personal income tax of \$228.72 plus interest of \$57.90, for a total due of \$286.62.

3. In addition to the aforementioned aggregate Federal audit change of \$2,631.00, the Internal Revenue Service allowed petitioners a foreign tax credit of \$628.00. Said credit was computed based on \$1,826.00 tax withheld by the Philippine government, from petitioners' gross dividends of \$5,215.00 from Atlas Consolidated Mining Corp., a Philippine corporation. Inclusive of the foreign tax credit, petitioners' net Federal audit changes resulted in a refund of \$10.00 to petitioners.

4. Petitioner argued that pursuant to an uncited treaty between the governments of the United States and the Philippines, New York State must also allow petitioners a foreign tax credit. He argued that New York State cannot assert a deficiency based on Federal audit changes which resulted in a refund.

CONCLUSIONS OF LAW

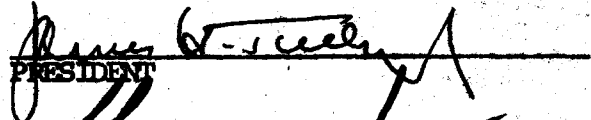
A. That for Federal income tax purposes, certain credits against the tax are allowed, such as ... the foreign tax credit and the retirement income credit. However, such Federal credits against the tax are not allowable for New York personal income tax purposes (20 NYCRR 103.3).

B. That the petition of Robert Goldstein and Rose B. Goldstein is denied and the Notice of Deficiency dated August 30, 1976 is sustained together with such additional interest as may be lawfully owing.

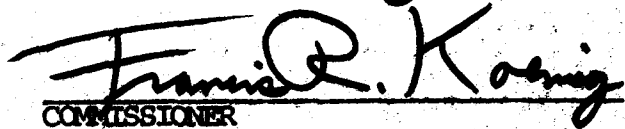
DATED: Albany, New York

OCT 31 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

TA 26 (9-79)

STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N. Y. 12227

Don A



UNCLAIMED
DO NOT REMAIL
IN THIS ENVELOPE



CLAIM CHECK
NO.

DATE 11/9

☒ 1ST NOTICE

☐ 2ND NOTICE

☐ RETURN

Detached from
PS Form 3849-A
May 1979

UNCLAIMED
DO NOT REMAIL
IN THIS ENVELOPE

No. 473115

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

October 31, 1980

Robert & Rose B. Goldstein
935 Prospect Pl.
Brooklyn, NY 11213

Dear Mr. & Mrs. Goldstein:

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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ROBERT GOLDSTEIN and ROSE B. GOLDSTEIN	:	DECISION
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A. That for Federal income tax purposes, certain credits against the tax are allowed, such as ... the foreign tax credit and the retirement income credit. However, such Federal credits against the tax are not allowable for New York personal income tax purposes (20 NYCRR 103.3).

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DATED: Albany, New York

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STATE TAX COMMISSION


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