

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Garabed & Marie G. Keuhnelian :
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 1970. :

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 4th day of April, 1980, he served the within notice of Decision by certified mail upon Garabed & Marie G. Keuhnelian, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

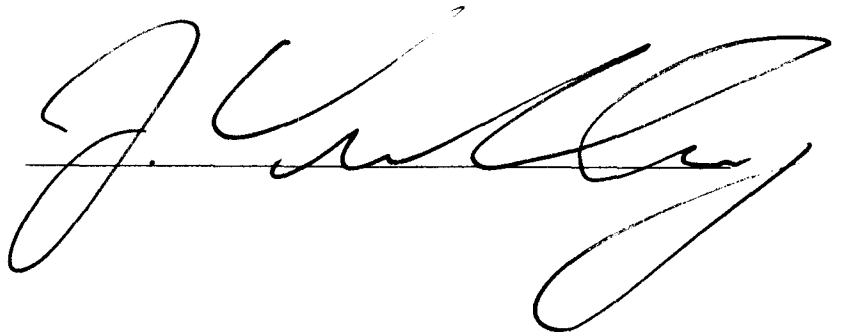
Garabed & Marie G. Keuhnelian
250 Gorge Rd., #9C
Cliffside Park, NJ 07010

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
4th day of April, 1980.

Joanne Knapp



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Garabed & Marie G. Keuhnelian :
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 1970. :

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 4th day of April, 1980, he served the within notice of Decision by certified mail upon Emanuel Fishman the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

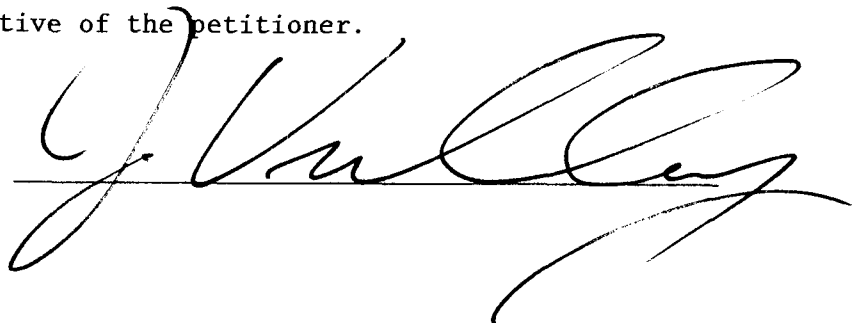
Mr. Emanuel Fishman
285 Madison Ave.
New York, NY

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
4th day of April, 1980.

Joanne Knapp



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

April 4, 1980

Garabed & Marie G. Keuhnelian
250 Gorge Rd., #9C
Cliffside Park, NJ 07010

Dear Mr. & Mrs. Keuhnelian:

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
Emanuel Fishman
285 Madison Ave.
New York, NY
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
GARABED KEUHNELIAN and MARIE G. KEUHNELIAN : DECISION :
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year :
1970. :

Petitioners, Garabed Keuhnelian and Marie G. Keuhnelian, 250 Gorge Road, #9C, Cliffside Park, New Jersey 07010, 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 1970 (File No. 13707).

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 October 24, 1978 at 9:15 A.M. Petitioners appeared by Emanuel Fishman, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Bruce M. Zalaman, Esq., of counsel).

ISSUES

I. Whether the ordinary income and net long-term capital gains paid to Mr. Keuhnelian in 1970 by Bryant Park Leasing Co., a partnership, was subject to taxation by New York State.

II. Whether the long-term capital losses suffered by Mr. Keuhnelian in 1970 may be deducted.

III. Whether Mrs. Keuhnelian owned a partnership interest in Bryant Park Leasing Co.

FINDINGS OF FACT

1. Petitioners, Garabed Keuhnelian and Marie G. Keuhnelian, timely filed a nonresident New York State Combined Income Tax Return (Form IT-209) for 1970.

2. On January 28, 1974, the Income Tax Bureau issued a Notice of Deficiency to petitioners, indicating a deficiency for 1970 of \$2,405.00, plus interest of \$401.95 for a total of \$2,806.95.

3. In 1970 petitioners were nonresidents of New York. Mr. Keuhnelian (now deceased) was a partner of Bryant Park Leasing Co. ("Bryant Park"), a partnership owning real property in New York. In 1970 his distributive share of ordinary income from Bryant Park was \$3,023.73, and his distributive share of net long-term capital gains was \$41,962.50.

4. Petitioners reported long-term capital losses of \$21,592.16 on their 1970 Federal tax return and deducted said losses from the distributive share of long-term capital gains received from Bryant Park to arrive at net long-term capital gains of \$20,370.34.

5. Petitioners provided no proof to substantiate the claim that Mrs. Keuhnelian owned an interest in Bryant Park.

CONCLUSIONS OF LAW

A. That the distributive share of ordinary income and net long-term capital gains derived by Mr. Keuhnelian as a partner of Bryant Park, a partnership owning real property in New York, constitutes income from New York sources in accordance with the meaning and intent of sections 637(a)(1) and 632(b)(1)(A) of the Tax Law and 20 NYCRR 134.1 and 131.3.

B. That long-term capital losses of \$21,592.16 cannot be subtracted from net long-term capital gains since petitioners have failed to substantiate that said losses were derived from or connected with New York sources within the meaning and intent of section 632(b)(3) of the Tax Law and 20 NYCRR 131.6.

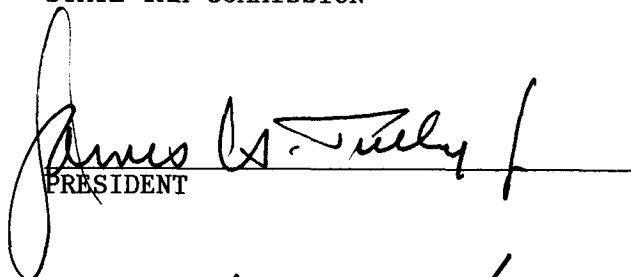
C. That petitioners have failed to substantiate that Mrs. Keuhnelian owned an interest in Bryant Park.

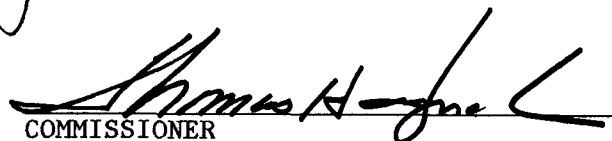
D. That the petition of Garabed Keuhnelian and Marie G. Keuhnelian is denied and the Notice of Deficiency dated January 28, 1974 is sustained.

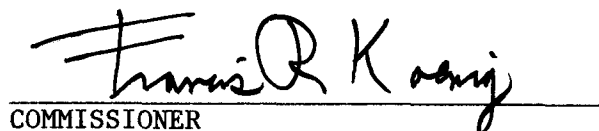
DATED: Albany, New York

APR 4 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER