

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Herbert & Terry Levy :
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 1975. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

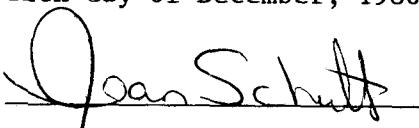
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 12th day of December, 1980, he served the within notice of Decision by certified mail upon Herbert & Terry Levy, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

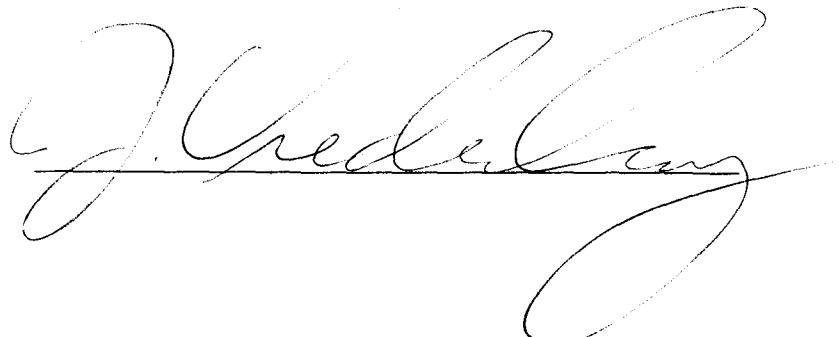
Herbert & Terry Levy
c/o Abrahams Brothers
119 W. 40th St.
New York, NY 10018

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
12th day of December, 1980.

Joan Schutt

Jay Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
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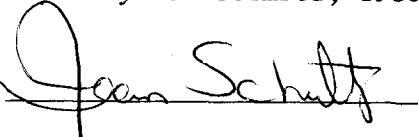
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 12th day of December, 1980, he served the within notice of Decision by certified mail upon T. Gorman Reilly the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

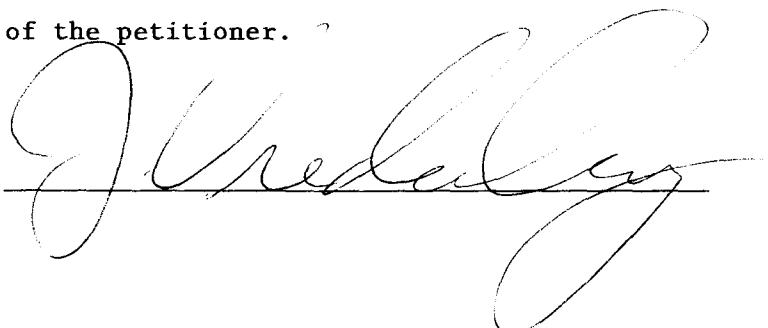
Mr. T. Gorman Reilly
Hahn, Hessen, Margolis & Ryan
350 Fifth Ave.
New York, NY 10118

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
12th day of December, 1980.


Jean Schultz


Jay Vredenburg

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

December 12, 1980

Herbert & Terry Levy
c/o Abrahams Brothers
119 W. 40th St.
New York, NY 10018

Dear Mr. & Mrs. Levy:

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
T. Gorman Reilly
Hahn, Hessen, Margolis & Ryan
350 Fifth Ave.
New York, NY 10118
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HERBERT LEVY and TERRY LEVY	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1975.	:	

Petitioners, Herbert Levy and Terry Levy, c/o Abrahams Brothers, 119 West 40th Street, New York, New York 10018, 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 1975 (File No. 19669).

A formal hearing was held before Edward Goodell, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 20, 1979 at 1:15 P.M. Petitioners appeared by Hahn, Hessen, Margolis & Ryan, Esqs., (T. Gorman Reilly, Esq., of counsel) and by Main Lafrentz & Co. (Jay L. Dengrove, CPA). The Audit Division appeared by Peter Crotty, Esq. (Aliza Schwadron, Esq., of counsel).

ISSUE

Whether petitioner Herbert Levy, a nonresident partner of Abrahams Brothers, is entitled to allocate part of his distributive share of partnership income to sources outside New York State.

FINDINGS OF FACT

1. Petitioners, Herbert Levy and Terry Levy, timely filed a joint New York State nonresident income tax return for the year 1975.
2. On April 14, 1977, the Audit Division issued a Statement of Audit Changes against petitioners, Herbert Levy and Terry Levy, for the taxable year

1975 asserting that additional tax was due for said year for the reason that "since the allocation of partnership income of the Abrahams Bros. has been disallowed, the allocation of your partnership income is also disallowed." Accordingly, a Notice of Deficiency was issued against petitioners Herbert Levy and Terry Levy, dated April 14, 1977 imposing additional personal income tax for the tax year 1975 amounting in the aggregate to \$473.14, together with interest thereon of \$40.11, for a total deficiency of \$513.25.

3. Petitioners Herbert Levy and Terry Levy timely filed a petition for redetermination of said deficiency or for refund of tax paid for the taxable year 1975.

CONCLUSIONS OF LAW

A. That petitioner Herbert Levy's proportionate share of partnership income derived from New York State sources for the year 1975 from the partnership Abrahams Brothers (as determined in the State Tax Commission decision in the Matter of the Petition of Abrahams Brothers, signed on this date) was correctly reported by petitioners on their respective return.

B. That the petition of Herbert Levy and Terry Levy for 1975 is granted and the Notice of Deficiency issued April 14, 1977 is cancelled.

DATED: Albany, New York

DEC 12 1980

STATE TAX COMMISSION

James G. Sulliv
PRESIDENT

Thomas Hagan
COMMISSIONER

Francis R. Koenig
COMMISSIONER