

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Hubert J. & Verne E. Taylor :

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 5th day of September, 1980, he served the within notice of Decision by certified mail upon Hubert J. & Verne E. Taylor, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Hubert J. & Verne E. Taylor
15 Dell Rd.
Stanhope, NJ 07874

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
5th day of September, 1980.

Debbie Bunk

J. Vredenburg

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

September 5, 1980

Hubert J. & Verne E. Taylor
15 Dell Rd.
Stanhope, NJ 07874

Dear Mr. & Mrs. Taylor:

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	:	
	:	
HUBERT J. TAYLOR and VERNE E. TAYLOR	:	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, Hubert J. Taylor and Verne E. Taylor, 15 Dell Road, Stanhope, New Jersey 07874, 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. 12431).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 18, 1980 at 2:45 P.M. Petitioner Hubert J. Taylor appeared pro se and for his wife, petitioner Verne E. Taylor. The Audit Division appeared by Ralph J. Vecchio, Esq. (A. Schwartz, Esq., of counsel).

ISSUE

Whether interest was properly imposed.

FINDINGS OF FACT

1. Petitioners, Hubert J. Taylor and Verne E. Taylor, timely filed a joint New York State Income Tax Resident Return for the year 1972, on which they reported New Jersey tax withheld of \$531.93 as New York State tax withheld.
2. On June 30, 1975, the Audit Division issued a Notice of Deficiency for additional tax due of \$230.86 and interest of \$36.09, along with an explanatory Statement of Audit Changes on which the New Jersey tax withheld was disallowed, and a resident tax credit of \$399.75 was allowed under section 620

of the Tax Law. In addition, a previous remittance of \$50.00 was applied against the deficiency, resulting in a balance due of \$216.95.

3. On July 15, 1975, an additional payment of \$62.81 was remitted, and noted on the aforementioned Statement of Audit Changes subsequent to the issuance of the deficiency.

4. Petitioner Hubert J. Taylor conceded the balance due of personal income tax in the amount of \$118.05, but disputed the amount of interest shown to be due. Petitioner argued:

- (a) That he made every attempt to resolve this matter by corresponding with the Audit Division.
- (b) That the Audit Division failed to properly advise him.
- (c) That the Audit Division's failure to properly advise him resulted in the statute of limitations expiring in the State of New Jersey for the filing of a claim for refund.
- (d) That the Audit Division's failure to promptly and properly advise him cause undue delays, which in turn resulted in additional accumulated interest.

5. Petitioner Hubert J. Taylor prepared and timely filed his own New York State Income Tax Resident Return for the year 1972. Petitioner contended that he did not timely file a 1972 tax return for the State of New Jersey.

CONCLUSIONS OF LAW

A. That section 684 of the Tax Law provides that interest be imposed on any amount of income tax not paid on or before the due date of a tax return.

B. That Article 22 of the Tax Law does not provide for the suspension, waiving or abatement of interest properly imposed.

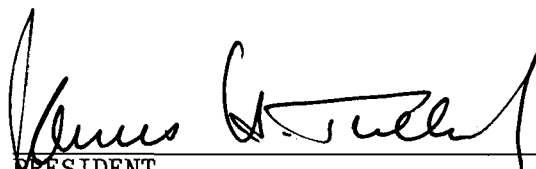
C. That regardless who may have been responsible for delays, or for the lack of appropriate tax advice, the ultimate responsibility for the filing of a tax return, as well as the payment of any tax liability, including interest due therefrom, is upon the petitioner in accordance with the meaning and intent of sections 651 and 684 of the Tax Law and 20 NYCRR 145.1.

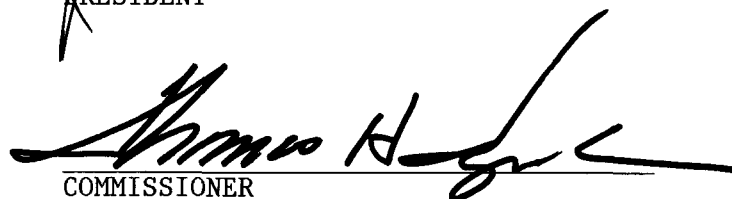
D. That the petition of Hubert J. Taylor and Verne E. Taylor is denied and the Notice of Deficiency issued June 30, 1975, with its payments of \$50.00 and \$62.81 is sustained, together with such additional interest as may be lawfully owing.


DATED: Albany, New York

SEP 05 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER