

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Bertram Blumberg and Ann Blumberg : AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or Revision :
of a Determination or Refund of NYS Personal :
Income Tax under Article 22 of the Tax Law and :
New York City Personal Income Tax under Chapter :
46, Title T of the Administrative Code of the :
City of New York for the Year 1980.

State of New York :

ss.:

County of Albany :

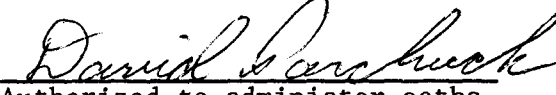
David Parchuck/Janet M. Snay, being duly sworn, deposes and says that he/she is an employee of the State Tax Commission, that he/she is over 18 years of age, and that on the 26th day of May, 1987, he/she served the within notice of Decision by certified mail upon Bertram & Ann Blumberg the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

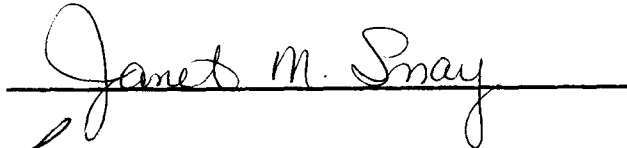
Bertram & Ann Blumberg
12 West 96th St.
New York, NY 10025

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
26th day of May, 1987.


Authorized to administer oaths
pursuant to Tax Law section 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Bertram Blumberg and Ann Blumberg : AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or Revision :
of a Determination or Refund of NYS Personal :
Income Tax under Article 22 of the Tax Law and :
New York City Personal Income Tax under Chapter :
46, Title T of the Administrative Code of the :
City of New York for the Year 1980.

State of New York :
ss.:
County of Albany :

David Parchuck/Janet M. Snay, being duly sworn, deposes and says that he/she is an employee of the State Tax Commission, that he/she is over 18 years of age, and that on the 26th day of May, 1987, he served the within notice of Decision by certified mail upon Maurice S. Joseph, the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Maurice S. Joseph
666 Cantiague Rock Road
Jericho, NY 11753

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
26th day of May, 1987.

David Parchuck
Authorized to administer oaths
pursuant to Tax Law section 174

Janet M. Snay

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

May 26, 1987

Bertram & Ann Blumberg
12 West 96th St.
New York, NY 10025

Dear Mr. & Mrs. Blumberg:

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 & 1312 of the Tax Law, a proceeding in court to review an adverse decision by the State Tax Commission may be instituted only under Article 78 of the Civil Practice Law 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
Audit Evaluation Bureau
Assessment Review Unit
Building #9, State Campus
Albany, New York 12227
Phone # (518) 457-2086

Very truly yours,

STATE TAX COMMISSION

cc: Taxing Bureau's Representative

Petitioner's Representative:
Maurice S. Joseph
666 Cantiague Rock Road
Jericho, NY 11753

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
BERTRAM BLUMBERG AND ANN BLUMBERG	:	DECISION
	:	
for Redetermination of Deficiencies or for	:	
Refunds of New York State Personal Income Tax	:	
under Article 22 of the Tax Law and New York	:	
City Personal Income Tax under Chapter 46,	:	
Title T of the Administrative Code of the City	:	
of New York for the Year 1980.	:	

Petitioners, Bertram Blumberg and Ann Blumberg, 12 West 96th Street, New York, New York 10025, filed a petition for redetermination of deficiencies or for refunds of New York State personal income tax under Article 22 of the Tax Law and New York City personal income tax under Chapter 46, Title T of the Administrative Code of the City of New York for the year 1980 (File No. 63956).

A hearing was held before Arthur Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on December 2, 1986 at 10:45 A.M. Petitioners appeared by Maurice S. Joseph, CPA. The Audit Division appeared by John P. Dugan, Esq. (Gary Palmer, Esq., of counsel).

ISSUE

Whether petitioners are liable for the payment of interest.

FINDINGS OF FACT

1. Petitioners, Bertram Blumberg and Ann Blumberg, timely filed a New York State and City resident income tax return for the year 1980.
2. On September 16, 1983, the Audit Division issued a Statement of Audit Changes to petitioners for 1980 which contained the following explanation:

"The Professional Service Corporation in which you are a shareholder/employee failed to reply to our letters of July 23, 1982 and September 21, 1982 requesting compliance under Section 658(f) of the New York State Tax Law. Section 658(f) requires a Professional Service Corporation to make and file information returns regarding your pension, social security, and certain insurance under Section 612(b)(7), (8) and (9) of the New York State Tax Law.

Therefore, since no modification was reported on your return an estimated adjustment is made based on available information.

<u>Adjustment</u>	<u>Husband</u>	<u>Wife</u>
Section 612(b)(7)	\$6,150.00	\$1,920.00
Section 612(b)(8)	1,315.72	650.24
Total	<u>\$7,465.72</u>	<u>\$2,570.24"</u>

Said statement determined additional tax due of \$1,142.97 from Bertram Blumberg and \$393.98 from Ann Blumberg, plus interest of \$446.39, for a total of \$1,983.34.

3. Based on the Statement of Audit Changes, the Audit Division, on April 12, 1984, issued a Notice of Deficiency to Bertram Blumberg, asserting tax due of \$1,142.97, plus interest of \$409.11, for a total of \$1,552.08. A separate Notice of Deficiency was issued on April 5, 1984 to Sandra Blumberg, asserting tax due of \$393.98, plus interest of \$141.04, for a total of \$535.02. Although the name was incorrect, the notice had the correct address of Ann Blumberg.

4. Upon receipt of the notices of deficiency, petitioners initiated correspondence with the Audit Division regarding, inter alia, the incorrect name of Sandra Blumberg. Petitioners maintained that six to nine months elapsed between their writings and the State's replies.

5. Following a pre-hearing conference with the Tax Appeals Bureau, the Audit Division revised the amount of tax due from petitioners to \$302.59, plus interest of \$202.48, for a total of \$505.07. Petitioners paid the revised tax due; however, they refused to pay the interest on the grounds that the delay in

resolving the matter was caused by the Audit Division in not timely responding to their letters.

CONCLUSIONS OF LAW


A. That there is no provision in the Tax Law or the City Administrative Code which permits interest charges to be waived, abated or cancelled. Accordingly, petitioners are liable for the payment of interest.

B. That the petition of Bertram Blumberg and Ann Blumberg is denied and the notices of deficiency issued April 5, 1984 and April 12, 1984, as revised, are sustained, together with such additional interest as may be lawfully due and owing.

DATED: Albany, New York

STATE TAX COMMISSION

MAY 26 1987


PRESIDENT


COMMISSIONER


COMMISSIONER