

POOR
QUALITY
THE FOLLOWING
DOCUMENT (S)
ARE
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

BUREAU OF LAW

MEMORANDUM

Income Tax Determinations
A-Z
Schwint, Kenneth F.
and
Virginia

TO: Commissioners Murphy and Macduff

FROM: Francis V. Dow, Hearing Officer

SUBJECT: Kenneth F. and Virginia Schwint
In the matter of the application of
Kenneth F. and Virginia Schwint for
revision or refund of personal income
taxes under Article 16 of the Tax Law
for the year 1959

A hearing with reference to the above matter was scheduled before me at 80 Centre Street, New York, New York, on October 3, 1966. The taxpayers defaulted in appearance.

The question involved herein is the adjustment of the taxpayers' taxable income for the year 1959 to conform with the audit of their Federal income tax return for the said year.

The United States Internal Revenue Service audited taxpayers' Federal tax return for 1959 and disallowed a payment to the Talbot Perkins Adoption Service as a contribution in the amount of \$775 on the ground that it was a fee. Accordingly the Income Tax Bureau issued a notice of additional assessment of income tax (Assessment No. TF-191243) to include said amount in taxpayers' corrected taxable income. The taxpayers had availed themselves of the services of the adoption agency, but contended that the \$775 payment was a voluntary contribution and was not an adoption agency fee. They failed to establish that the payment was not made in consideration for adoption services. I am therefore of the opinion that the taxpayers' application for revision or refund of personal income taxes for the year 1959 should be denied.

For the reasons stated above, I recommend that the decision of the Tax Commission in the above matter be substantially in the form submitted herewith.

December 12, 1966

/s/

FRANCIS V. DOW

Hearing Officer

FVD:cp (Dec. 16, 1966)
Enc.

/s/

MARTIN SCHAPIRO

Approved

/s/

SAUL HECKELMAN

Approved

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION
OF

KENNETH F. AND VIRGINIA SCHWINT

FOR REVISION OR REFUND OF PERSONAL
INCOME TAXES UNDER ARTICLE 16 OF THE
TAX LAW FOR THE YEAR 1959

Kenneth F. Schwint, having filed an application for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1959, and a notice of hearing having been mailed to the taxpayers on September 7, 1966, scheduling a formal hearing to be held at the office of the State Tax Commission at 80 Centre Street, New York, New York, on October 3, 1966, at 3:30 p.m. before Francis V. Dow, Hearing Officer, of the Department of Taxation and Finance, and the taxpayers having failed to appear at such hearing and their default having been duly noted, the matter having been examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers filed a New York State resident tax return for the year 1959, on which they reported a taxable income in the amount of \$5,112.00; that a notice of additional assessment of income taxes (Assessment No. TP-191263) was issued on September 26, 1961 to conform with the audit of the Federal income tax return for the year 1959 and imposed additional tax in the sum of \$38.75.

(2) That the Internal Revenue Service disallowed a deduction for contributions in the sum of \$775.00 included in the taxpayers' 1959 Federal return, inasmuch as the deduction for a payment to the Talbot Perkins Adoption Service was deemed a fee and not a valid contribution.

Based upon the foregoing findings, the State Tax Commission hereby

DETERMINES:

(A) That the payment to the Talbot Perkins Adoption Service in the sum of \$775.00 was a fee for adoption services and not a valid contribution deductible from the taxpayers' income in their 1959 tax return.

(B) That the additional tax assessed against the taxpayers for the year 1959 (Assessment No. TP-191543) was properly and timely issued; that the additional tax assessed against the taxpayer for such year was correct and legally due and owing and that the taxpayers are not entitled to any further revision or refund of such taxes for the year 1959.

Dated: Albany, New York, on the 27th day of December, 1966.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

PRESIDENT

/s/

JAMES R. MACDUFF

COMMISSIONER