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STATE OF NEW YORK
STATE TAX COMMISSION

HEARING UNIT - File Copy

TAX _____

In the Matter of the Application :

of :

JACK LEONARD :

and :

SALLY ANN LEONARD, his wife :

For a Redetermination of a Deficiency
or for a Refund of Personal Income
Taxes under Article 22 of the Tax Law
for the Years 1960, 1961, 1962 and
1963 :

DECISION

ON

DEFAULTS

REMARKS

The petitioners having filed a petition for a redetermination of a deficiency or for a refund of personal income taxes under Article 22 of the Tax Law for the years 1960, 1961, 1962 and 1963 and a hearing having been duly scheduled on February 20, 1970, at the offices of the Department of Taxation and Finance at 80 Centre Street, New York, New York, before Francis X. Boylan, Esq., Hearing Officer, and the Department having appeared by E. H. Best, Counsel, (Solomon Sies, Esq. of counsel), and there having been no appearance on behalf of the petitioners, and the record having been duly examined and considered, the State Tax Commission hereby

FINDS:

(1) The failure of any appearance on behalf of the petitioners at the scheduled hearing constituted a default.

(2) By a notice of deficiency, dated January 4, 1965, and an attached statement of audit changes, the State Tax Commission notified petitioners that it determined that there were deficiencies of personal income taxes for the years 1960, 1961, 1962 and 1963.

As to the year 1960, there was a deficiency in the amount of \$1,699.72 together with a penalty of 5% (Tax Law § 685(b)) in the amount of \$85.00 and interest in the amount of \$379.51, to a total of \$2,164.23 for the said year as of the date of the said notice.

As to the year 1961, the deficiency was in the amount of \$4,590.42 with a penalty at 5% in the amount of \$229.51 and interest in the amount of \$749.52, to a total of \$5,569.45 for the said year as of the date of the said notice.

As to the year 1962, there was a deficiency in the amount of \$5,044.15 with a penalty of 5% in the amount of \$252.20 and interest in the amount of \$520.96, to a total of \$5,817.31 for the said year as of the date of the said notice.

As to the year 1963, the deficiency was in the amount of \$130.60, without penalty, and with interest in the amount of \$5.65, to a total of \$136.25 for the said year as of the date of the said notice.

These deficiencies were subject to future modification to conform with information that might be reported in any federal audit of the taxpayers' federal income tax returns for the said years, the statement of audit changes stated.

(3) Except as to the year 1963, the deficiencies asserted in each of years under consideration were based on reports of further income discovered to have been earned by petitioner, Jack Leonard, in the course of an audit and investigation of earnings of professional jockeys generally in this State. He was a professional jockey.

As to the year 1963, the deficiency asserted (\$130.60) resulted from the disallowance of \$1306.00 out of an amount of \$1,606.00 reported as expended for life insurance premiums, and taken by petitioners as a deduction or "adjustment" of reported income, in excess of the maximum (\$300) allowable.

(4) Petitioners by their representatives agreed to report to the Department the results of federal audits of their federal income tax returns for the years under consideration, but did not do so.

Accordingly, the State Tax Commission hereby

DECIDES:

(A) That the said determinations of deficiencies were not unlawful or incorrect.

(B) That the said deficiencies set forth in paragraph 2 hereof are affirmed and constitute assessments of taxes as of the date of the said notice thereof. The said assessments are subject to further interest at 6% per annum until payment is made, as provided by Tax Law (§§ 684 and 685).

DATED: Albany, New York
April 29, 1970

STATE TAX COMMISSION

Norman Gallivan
COMMISSIONER

Bruce K. Bradley
COMMISSIONER

Milton Krerner
COMMISSIONER