

STATE OF NEW YORK
STATE TAX COMMISSION

Tolins Joseph P.
Personal Income
1971

In the Matter of the Petition

of

JOSEPH P. TOLINS

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 16 of the
Tax Law for the (Year(s) 1955, 1956
and 1957

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Linda Wilson, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 29th day of March, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon JOSEPH P.

TOLINS (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Joseph P. Tolins
14 Washington Place
New York, New York

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

29th day of March, 1971.

Martha Sunars

Linda Wilson

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
JOSEPH P. TOLINS	:	
for Revision or Refund of Personal	:	DETERMINATION
Income Taxes under Article 16 of the	:	
Tax Law for the years 1955, 1956 and	:	
1957	:	

Joseph P. Tolins having filed applications pursuant to Section 374 of the Tax Law for revision of assessments of personal income taxes imposed under Article 16 of the Tax Law for the years 1955, 1956 and 1957 and such applications having been denied and the file of the Department pertaining to said applications having been submitted to the State Tax Commission in lieu of a hearing and said file having been duly examined and considered.

The State Tax Commission hereby

FINDS:

1. The primary issues in this case relate to the distributive share of taxpayer in a partnership in 1955 and his sale of that partnership interest in 1955. For 1955 and also for 1956 and 1957 the assessments find additional receipts, and disallows certain deductions as unsubstantiated.

2. The assessments as revised on April 20, 1962, are as follows:

	Tax	Penalty	Interest	Total
1955	\$1,032.99	\$51.65	\$108.46	\$1,193.10
1956	226.59	11.33	23.79	261.71
1957	674.30	33.71	70.80	778.81

3. Taxpayer was a 30% partner in the partnership of Carver and Tolins which owned real estate at 14 Washington Place, New York City. He acquired his interest in 1945 (20%) and 1949 (10%). The partnership reported on the basis of a May 31 fiscal year. For the fiscal year May 31, 1955, the taxpayer had a distributive share of \$8,034.07.

4. Taxpayer sold his interest in Carver and Tolins to outside parties on February 15, 1955, with closing adjustments being made as of December 31, 1954. The sales price as shown on the books of the purchaser was \$373,674.14. The basis of taxpayer's interest as shown on the partnership books was \$150,975.79.

5. The taxpayer's contention that he reported his distributive share from the partnership in prior years and when actually received by him has not been proven.

6. The taxpayer's computation of the sales price and cost basis of the partnership interest is unexplained and unproven insofar as it differs from the computation in the assessment.

7. There is no evidence available to justify a further revision of the various items of income and deduction assessed for 1955, 1956 and 1957.

Upon the foregoing findings and all the evidence in the case,

The State Tax Commission

DETERMINES:

A. The assessments as revised on April 20, 1962, do not contain any amounts which could not have been lawfully assessed.

B. The application is denied and the assessments are affirmed together with such interest and additional charges, if any, as may be due pursuant to Sections 376 and 377 of the Tax Law.

DATED: Albany, New York
March 29, 1971

STATE TAX COMMISSION

Norman Gallivan
COMMISSIONER

Bruce Alanley
COMMISSIONER

Milton Koern
COMMISSIONER