

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

BENJAMIN GARFINKEL and SADIE GARFINKEL

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the (Year(s) 1965.

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

State of New York
County of Albany

Lynn 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 1st day of August, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon BENJAMIN GARFINKEL and SADIE GARFINKEL (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Benjamin and Sadie Garfinkel
83-45 Broadway
Elmhurst, New York 11373

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

1st day of August, 1972

Martha Furman
Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
August 1, 1972

Benjamin and Sadie Garfinkel
83-45 Broadway
Elmhurst, New York 11373

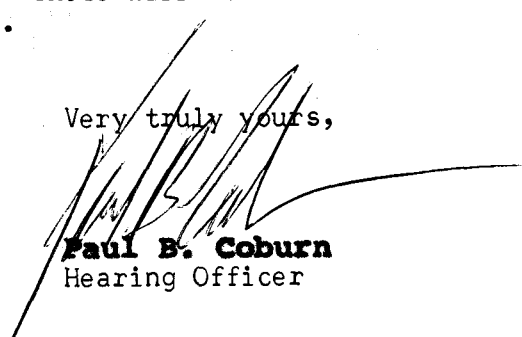
Dear Sir and Madam:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to section(s)
690 & 722 of the Tax Law any proceeding
in court to review an adverse decision must be commenced
within **4 months** after the date of this notice.

Any inquiries concerning the computation of tax due or
refund allowed in accordance with this decision or
concerning any other matter relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,


Paul B. Coburn
Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
BENJAMIN GARFINKEL and SADIE GARFINKEL	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income and	:	
Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law	:	
for the Year 1965.	:	

Petitioners, Benjamin Garfinkel and Sadie Garfinkel, have filed a petition for redetermination of deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the year 1965. (File No. 7-89981148). A calendar call was scheduled before the Honorable Milton Koerner, State Tax Commissioner, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on March 27, 1972, at 10:30 A.M. At the calendar call, petitioners waived a formal hearing and consented to the issuing of a decision without the introduction of additional evidence by them. The State Tax Commission renders the following decision after a review by it of the entire record contained in the file.

ISSUE

Did petitioners, Benjamin Garfinkel and Sadie Garfinkel, timely file a claim for credit or refund of personal income and unincorporated business taxes paid for the year 1965?

FINDINGS OF FACT

1. Petitioners, Benjamin Garfinkel and Sadie Garfinkel, filed a New York State combined income tax return for the year 1965. The return was received by the Jamaica District Office of the Department of Taxation and Finance on June 17, 1966. The return indicated a balance due of \$666.82. Payment of the tax due was not remitted

with the return. Petitioner, Benjamin Garfinkel, simultaneously filed a New York State unincorporated business tax return for the year 1965. This return indicated a balance due of \$168.04.

2. The last payment of tax due on petitioners, Benjamin Garfinkel and Sadie Garfinkel's 1965 New York State combined income tax and unincorporated business tax returns was made on September 15, 1966.

3. Petitioners, Benjamin Garfinkel and Sadie Garfinkel, filed a claim for credit or refund of personal income and unincorporated business taxes paid for the year 1965. Said claim was mailed by them on July 9, 1969, and was received by the Review Unit of the Albany office of the Income Tax Bureau on July 14, 1969. On December 23, 1969, the Income Tax Bureau disallowed the aforesaid claim for refund upon the grounds that the claim was not timely filed.

4. Petitioners, Benjamin Garfinkel and Sadie Garfinkel's claim for refund was filed more than three years from the time the tax returns were filed and more than two years from the time the tax was paid.

CONCLUSIONS OF LAW

A. That petitioners, Benjamin Garfinkel and Sadie Garfinkel's claim for credit or refund of personal income and unincorporated business taxes paid for the year 1965 was not filed within the period of time prescribed by section 687(a) of the Tax Law and therefore a credit or refund may not be allowed or made in accordance with the meaning and intent of section 687(e) of the Tax Law.

B. That the petition of Benjamin Garfinkel and Sadie Garfinkel is denied and the disallowance of their claim for credit or refund is sustained.

DATED: Albany, New York

August 1, 1972.

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Marley
COMMISSIONER

Milton Koenig
COMMISSIONER