

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

KENNETH B. RAY

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

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 4th day of December, 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon KENNETH B.  
RAY (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Mr. Kenneth B. Ray  
3 Putnam Hill  
Greenwich, Connecticut

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

4th day of December, 1972.

Martha Durazo

~~John~~ 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  
December 4, 1972

Mr. Kenneth B. Ray  
3 Putnam Hill  
Greenwich, Connecticut

Dear Mr. Ray:

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

Please take further notice that pursuant to **section 375 of**  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **90 days** 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 relat-  
ing hereto may be addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

**L. Robert Leisner**

HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
KENNETH B. RAY	:	DETERMINATION
for Revision of Personal Income Taxes	:	
under Article 16 of the Tax Law for	:	
the Years 1955, 1956, and 1957.	:	

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The taxpayer, Kenneth B. Ray, applied for revision or refund of Personal Income Taxes for the years 1955, 1956 and 1957. A formal hearing was held on June 8, 1964, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Vincent P. Molineaux, Hearing Officer.

FINDINGS OF FACT

1. The Income Tax Bureau issued notices of assessment of income tax for the years 1955, 1956 and 1957, under assessments B-451151, B-451152 and B-53066 respectively.
2. The assessments were based upon disallowance of apportionment of professional income by days worked in New York, disallowance of withholding taxes, and disallowance of deductions claimed for interest, taxes, home entertainment expenses and church contributions.
3. At the hearing, nothing was offered with respect to deductions of interest, taxes and home entertainment expenses which totaled \$958.00, \$1,000.00 and \$1,579.31 for 1955, 1956 and 1957 respectively.
4. The taxpayer made contributions to the National Episcopal Church of \$148.50, \$166.25 and \$240.00 in 1955, 1956 and 1957, respectively.
5. The taxpayer was on a cash basis and he deducted \$820.00 in 1955 and \$429.00 in 1956, the years when he made the actual payments of the taxes. Taxpayer, a cash basis taxpayer, followed a consistent practice in deducting salaries of employees when he paid the salaries, and in deducting taxes only when he paid the taxes.

6. No evidence was introduced with respect to allocation of income by days worked in New York.

7. The taxpayer was a non-resident of New York. Taxpayer maintained a law office in New York City. Taxpayer was also a member of the Connecticut bar and maintained an office on Stanwick Road, Greenwich, Connecticut. The taxpayer was a resident of Connecticut during the years in issue and he received income for services performed in Connecticut as a Connecticut executor for a Connecticut estate. The taxpayer maintained a Connecticut office and all his work as an executor for the estate was done in Connecticut. For his services, the taxpayer received compensation of \$15,602.02, \$8,212.31 and \$25,871.02 in 1955, 1956 and 1957 respectively as executor of the Connecticut estate. Taxpayer contended his executor's income was not subject to New York income tax.

#### CONCLUSIONS OF LAW

A. The Income Tax Bureau's disallowances of interest, taxes and home entertainment expenses are sustained.

B. The contributions to the National Episcopal Church during the years in issue are allowed and the determinations are modified accordingly.

C. The disallowances of taxpayer's income allocations by days worked in New York are sustained.

D. The compensation received for services rendered in Connecticut as a Connecticut executor for a Connecticut estate by taxpayer, a Connecticut resident is not subject to New York tax. The Income Tax Bureau's determinations are modified accordingly. *Oxnard v Murphy*, 19 A.D. 2d 138, *Perkins v Commissioner of Internal Revenue*, 40 TC 330, section 359, Tax Law, Subdivision 3.

E. The tax assessments for the years in question are modified and sustained as follows:

<u>Year</u>	<u>Assessment</u>	<u>Amount</u>
1955	B-451151	\$250.62
1956	B-451152	593.11
1957	B-530066	110.55

F. Interest on the assessments shall be computed from the date of the assessment until the date of payment. Credit shall be given for any payments thereon as provided by the Tax Law.

DATED: Albany, New York  
December 4, 1972

STATE TAX COMMISSION

*Norman Galtman*  
COMMISSIONER

*Bruce Marley*  
COMMISSIONER

*Milton Korman*  
COMMISSIONER

MEMORANDUM

TO: Mr. Louis Etlinger, Chief, Review Unit  
Att: Floyd Worden  
Income Tax Bureau  
Room 104, Building #8

DATE: 2/26/73

FROM: Hearing Unit  
Room 214A, Building #9

RE: KENNETH B. RAY

SOCIAL SECURITY NO.

Please advise as to the last known address for the above named taxpayer.

*L. Robert Leisner*

Hearing Officer

Taxpayer's last known address is:

KENNETH B. RAY  
PUTNAM GREEN IF  
GREEN WICH, CINN.

RECEIVED  
NEW YORK STATE  
INCOME TAX BUREAU  
FEB 26 1973  
REVIEW UNIT  
ALBANY OFFICE



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A  
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

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