

*Income Tax Act*  
*Barrie, Geo.*  
*1975-*

DEPARTMENT OF TAXATION AND FINANCE

## MEMORANDUM

TO : Commissioner Koerner

FROM : Abram J. Cuttler

SUBJECT: George and Gloria Barrie

OFFICE: Administration

DATE : October 10, 1975

This case was under review by the Income Tax Bureau upon request of former Commissioner Manley. The file also contains correspondence between you and former Director John Donovan.

There was a Tax Commission Decision against the taxpayer based on default. His representative, Joseph Carlino, had requested a conference, in lieu of article 78 proceedings, in order to reach a settlement. A conference was granted by Commissioner Manley at which time Mr. Carlino claimed that he would submit evidence that his client was a nonresident for years other than 1966, the one year we were willing to concede. He was granted time to obtain such proof and was given to understand that the Commission would review such additional facts and that it would not be necessary to begin article 78 action.

At a second conference held in my office on September 4, 1975, Mr. Carlino submitted documents to substantiate nonresident status for 1965 and 1967 (we had already accepted 1966). In doing so, however, questions arose as to the proper allocation for work done outside New York, which then became important if the taxpayer was to be considered a nonresident. Mr. Carlino subsequently mailed revised schedules of days worked outside New York for 1965 and 1967.

I have attached a recomputation for all years based on the additional information. This information had never before been submitted, and was not part of the file when the Commission made its decision.

It was quite apparent from the flight log and other documents submitted that the taxpayer could convince the court that he was a nonresident for 1965 and 1967. I believe the attached fairly reflects the taxpayer's liability for all years.

I recommend that the Tax Commission approve the recomputation of tax. Upon notification of such approval, the Income Tax Bureau will request payment of \$29,585.03 in full settlement of this case.

*Approved*  
*Milton Kraus 11/27/75*

*Abram J. Cuttler*  
Abram J. Cuttler  
Director

File Attached

*Approved*  
*James T. Smith*  
*12/1/75*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE and GLORIA BARRIE

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article (8) 22 of the  
Tax Law for the Year(s) 1965, 1966, 1968.

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

State of New York  
County of Albany

Janet Mack 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 27th day of February, 1975, she served the within  
Notice of Decision ~~(or Redetermination)~~ by (certified) mail upon George and  
Gloria Barrie ~~(representative of the)~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. & Mrs. George Barrie  
25 Old Hill Road  
Westport, 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 the)~~  
~~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

27th day of February, 1975.

Katherine D. Manly

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

**DATED:** Albany, New York  
**February 27, 1975**

**Mr. & Mrs. George Barrie**  
**25 Old Hill Road**  
**Westport, Connecticut**

**Dear Mr. & Mrs. Barrie:**

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

Please take further notice that pursuant to  
Section(~~x~~) **690** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
from 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 relative  
hereto may be addressed to the undersigned.  
These will be referred to the proper party for  
reply.

Very truly yours,

**Nigel G. Wright**  
HEARING OFFICER

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~  
Law Bureau

## STATE TAX COMMISSION

Now on motion of the attorney for the Department of Taxation  
and Finance, it is