

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

REUBEN ABEL and MARION ABEL

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(X)~~ 22 of the :
Tax Law for the Year(s) ~~on Period(s)~~ :
1968, 1969 and 1970.

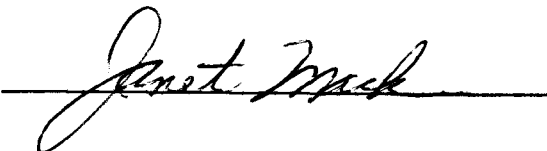
State of New York
County of Albany

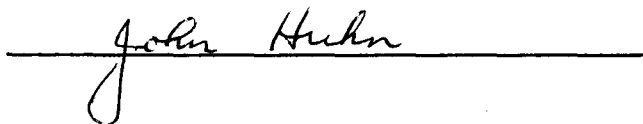
John Huhn , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 1 st day of December , 1977 , she served the within
Notice of Decision by (certified) mail upon Reuben Abel and
Marion Abel ~~(Representative of the)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Reuben Abel and Marion Abel
17 Monroe Avenue
Larchmont, New York 10538
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 Postal Service within the State of New York.

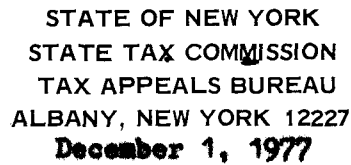
That deponent further says that the said addressee is the ~~(Representative of the)~~
~~XXXXX~~ petitioner herein and that the address set forth on said wrapper is the
last known address of the ~~(Representative of the)~~ petitioner.

Sworn to before me this

1st day of December , 1977.







JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Reuben Abel and Marion Abel
17 Monroe Avenue
Larchmont, New York 10538

Dear Mr. & Mrs. Abel:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~51~~ **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 Months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

JOSEPH CHYRYWATT
HEARING EXAMINER

72000128155349025565663607

Taxing Bureau's Representative

STATE TAX COMMISSION

Whether petitioners are entitled to income tax refunds for the years 1968, 1969 and 1970, where the claims for such refunds were made after the statutory period of limitations expired.

1. Petitioners, Reuben Abel and Marion Abel, filed New York State resident income tax returns for the years 1968 through 1973.

2. On November 22, 1974, petitioners filed claims for credit or refund of personal income taxes for the years in question.

3. Petitioners contended that interest income pertaining to seven-year United States Treasury Notes had erroneously been included on the aforesaid tax returns and that they did not discover their error until the bonds were redeemed.

4. The Income Tax Bureau granted petitioners' claims for the years 1971, 1972 and 1973, but denied the claims for the years 1968, 1969 and 1970, citing the limitations provision of section 687 of the Tax Law.

5. Aside from the testimony of petitioner Reuben Abel, no proof was introduced at the hearing to show that petitioners' included interest income from United States Treasury Notes in their New York adjusted gross income for the years at issue.

6. Petitioners reported interest income of \$6,364.27 on their 1969 New York State Income Tax return, but none of said amount was identified as interest income from United States Treasury Notes. Copies of the 1968 and 1970 tax returns do not appear in the record.

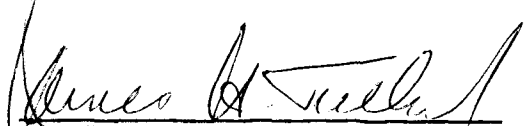
CONCLUSIONS OF LAW

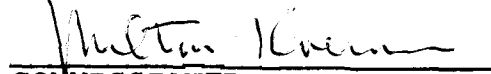
A. That, although petitioners' New York adjusted gross income for the years 1968, 1969 and 1970 may have included amounts of interest income from United States Treasury Notes, their claims for credit or refund were not filed within the period of time prescribed by section 687(a) of the Tax Law. Therefore, a credit or refund is prohibited (Tax Law, section 687(e)).

B. That the petition of Reuben Abel and Marion Abel is denied.

DATED: Albany, New York
December 1, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER