

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MICHAEL J. & ADONIA FORTE

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) 16 of the :
Tax Law for the Year(s) ~~or years~~ :
1955 and 1956.

State of New York
County of Albany

Bruce Batchelor , 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 April , 19 77, ~~she~~ served the within
Notice of Determination by (~~certified~~) mail upon Michael J. & Adonia
Forte (~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. & Mrs. Michael J. Forte
Willets Road
Old Westbury, 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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative~~
~~of the~~) 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 April , 19 77

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MICHAEL J. & ADONIA FORTE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(s)~~ 16 of the :
Tax Law for the Year(s) ~~or Period(s)~~ :
1955 and 1956.

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
~~He~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 27th day of April , 1977, ~~he~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Terence E. Smolev

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Terence E. Smolev, Esq.
Naidich & Smolev, P.C.
2631 Merrick Road
Bellmore, New York 11710

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) 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 April , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

April 27, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. Michael J. Forte
Willets Road
Old Westbury, New York

Dear Mr. & Mrs. Forte:

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

Please take further notice that pursuant to
Section(**X**) **375** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **90 days**
from the date of this notice.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia
Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
MICHAEL J. & ADONIA FORTE : DETERMINATION
for Revision or Refund of Personal :
Income Taxes under Article 16 of the :
Tax Law for the Years 1955 and 1956. :

Applicants, Michael J. and Adonia Forte, residing at Willets Road, Old Westbury, New York, filed applications for revision or refund of personal income tax under Article 16 of the Tax Law for the years 1955 and 1956. On August 3, 1976, they advised the State Tax Commission, in writing, that they desired to waive a small claims hearing and to submit the case to the State Tax Commission upon the entire record contained in the file.

ISSUE

Were applications for refunds, resulting from Federal audit changes for the years 1955 and 1956, filed timely?

FINDINGS OF FACT

1. The 1955 and 1956 Federal returns of applicants, Michael J. and Adonia Forte, were audited and changed by the Internal Revenue Service. The date of final Federal determination was June 29, 1962.

2. On October 18, 1963, applicants, Michael J. and Adonia Forte, filed Forms IT-115 for 1955 and 1956 reporting the Federal changes and requesting refunds for said years. The refunds requested were in the amount of \$800.52 for 1955 and \$2,868.00 for 1956.

3. On July 17, 1964, the Income Tax Bureau denied the refunds upon the grounds that the applications for refund were not filed within 90 days of final Federal determination as required by law.

CONCLUSIONS OF LAW

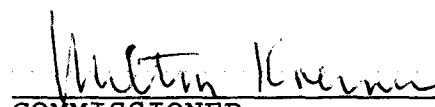
A. That the applications for refund for the years 1955 and 1956 requested on Forms IT-115 were not filed timely in accordance with the meaning and intent of section 374 of the Tax Law and Article 571(a) of the Personal Income Tax Regulations.

B. That the applications of Michael J. and Adonia Forte are denied and the Notice of Refund Disallowance dated July 17, 1964 for the years 1955 and 1956 is sustained.

DATED: Albany, New York
April 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER