

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEWIS M. KAPLAN

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)~~ 22 of the :
Tax Law for the Year ~~(s)~~ ~~1968~~ ~~(s)~~ 1968.:

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 14th day of April , 19 77, ~~he~~ served the within
Notice of Decision by ~~(certified)~~ mail upon Lewis M. Kaplan

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Lewis M. Kaplan
125 Old Church Street
London, S.W. 3, England

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)~~
~~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

14th 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 14, 1977

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

Mr. Lewis M. Kaplan
125 Old Church Street
London, S.W. 3, England

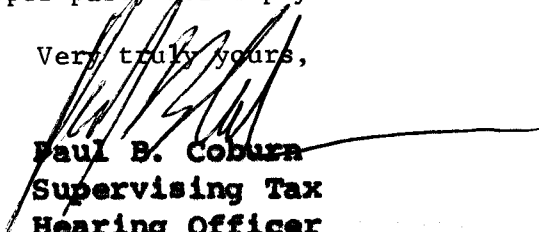
Dear Mr. Kaplan:

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

Please take further notice that pursuant to
Section(★) **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.

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,


Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: ~~Enclosure~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LEWIS M. KAPLAN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1968.	:	

Petitioner, Lewis M. Kaplan, 125 Old Church Street, London, S.W. 3, England, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1968. (File No. 01862).

A formal hearing was held before Michael Alexander, Hearing Officer, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on October 7, 1976 at 10:30 A.M. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Richard Kaufman, Esq. of counsel).

ISSUE

Whether petitioner, Lewis M. Kaplan, was a resident individual of New York State for the year 1968.

FINDINGS OF FACT

1. Petitioner, Lewis M. Kaplan, filed a New York State income tax resident return, on January 12, 1970, for the year 1968. Petitioner filed said return late on advice of counsel. On this same return, petitioner listed his address as 125 Old Church Street, London, S.W. 3, England, and reported only the income earned from January 1, 1968 until July 31, 1968, when he moved outside the State of New York. His total Federal income was listed as \$59,018.46.

2. On May 22, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Lewis M. Kaplan, imposing additional income tax for the year 1968 in the sum of \$3,616.70, plus penalty and interest of \$1,577.42, for a total of \$5,194.12. Accordingly, a Notice of Deficiency was issued to the petitioner in this amount.

3. The petitioner, Lewis M. Kaplan, was born and raised in New Jersey.

4. In 1958, petitioner, Lewis M. Kaplan, took a position with the National Association of Investment Companies. Shortly thereafter, he took up residence in a leased apartment in New York State where he continually resided until July, 1968.

5. In 1968, petitioner was employed by the Gramco Corporation, and moved from New York State to Nassau, the Bahamas, sometime after July of that year. This move was to enable the petitioner to work for the Gramco Corporation.

CONCLUSIONS OF LAW

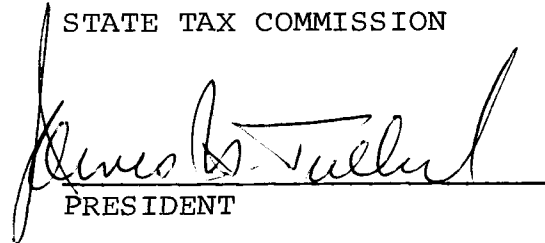
A. That petitioner, Lewis M. Kaplan, was domiciled in New York State and maintained a permanent place of abode in New York State for part of 1968, and as such, was a resident individual of New York State for the year 1968 in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2. He did not change his domicile to Nassau, the Bahamas in July, 1968.

B. That petitioner, Lewis M. Kaplan, had reasonable cause for his failure to file timely his 1968 New York State resident income tax return, and that, therefore, the penalty imposed pursuant to section 685(a) of the Tax Law is cancelled; that

the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued May 22, 1972; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
April 14, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER