

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF LOUIS KOHL and

FLORENCE KOHL

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~xx~~ 22 of the
Tax Law for the Year ~~(xxxxxx Period)~~ 1970 :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Marsina Donnini, 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 22 day of August, 19 77, she served the within
Notice of Decision by (certified) mail upon Estate of Louis Kohl
and Florence Kohl
~~(xxxxxx Period)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Estate of Louis Kohl & Florence Kohl
c/o Benedict M. Kohl, Executor
744 Broad Street
Newark, New Jersey 07102
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)~~
~~xxxxxx~~ 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

22 day of August, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF LOUIS KOHL and

FLORENCE KOHL

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of personal income
Taxes under Article ~~(8)~~ 22 of the
Tax Law for the Year ~~(1970)~~ 1970.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Marsina Donnini, 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 22 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Benedict M. Kohl, Executor (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Benedict M. Kohl, Esq.
c/o Lowenstein, Sandler, Brochin, Kohl & Fisher
744 Broad Street
Newark, New Jersey 07102
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

22 day of August, 1977

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

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

August 22, 1977

**Estate of Louis Kohl & Florence Kohl
c/o Benedict M. Kohl, Executor
744 Broad Street
Newark, New Jersey 07102**

Dear Mr. Kohl:

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 ~~(x)~~ **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 Chyzywaty
Hearing Examiner

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ESTATE OF LOUIS KOHL and : DECISION
FLORENCE KOHL :
for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Year 1970. :

Petitioners, Estate of Louis Kohl and Florence Kohl, c/o
Benedict M. Kohl, Executor, 744 Broad Street, Newark, New Jersey
07102, have filed a petition for redetermination of a deficiency
or for refund of personal income taxes under Article 22 of the Tax
Law for the year 1970 (File No. 00584).

A small claims hearing was held before Philip Mercurio, Small
Claims Hearing Officer, on March 2, 1977 at 1:15 P.M. at the
offices of the State Tax Commission, Two World Trade Center, New
York, New York. The petitioners appeared by Benedict M. Kohl,
Executor. The Income Tax Bureau appeared by Peter Crotty, Esq.
(Louis Senft, Esq. of counsel).

ISSUE

Whether the petitioners, Estate of Louis Kohl and Florence
Kohl, nonresidents, are entitled to an oil loss deduction on their
1970 nonresident New York State income tax return.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioners filed a New York State nonresident income tax return for the year 1970 on which a business loss was claimed in the sum of \$22,999.00 relating to exploration for and drilling of oil and gas wells. The amount of the loss is not being contested.

2. During the year 1970, petitioner, Louis Kohl, was engaged full time in the business of Gruntal and Company, members of the New York Stock Exchange. He also had a limited partnership interest in Prudential Drilling Funds, the activity of which was to explore for and to drill oil and gas wells. The business activity of Prudential Drilling Funds was not carried on in New York State.

3. Petitioners maintained that the syndicate, Prudential Drillings Funds, was organized in New York State and its headquarters was located in New York City, and therefore, said loss was a business loss derived from a source within New York State and deductible in full for New York State income tax purposes.

4. Petitioners also argued, in the alternative, that the amount of \$22,999.00 expended for intangible drilling and exploration of oil and gas wells was allowable as an itemized deduction under section 263(c) of the Internal Revenue Code. Therefore, petitioners contended if a business loss of \$22,999.00 is not allowed for 1970, the expenditure of \$22,999.00 should be included with the Federal itemized deductions, as modified

for New York State income tax purposes, and an itemized deduction allowed to the extent permitted by section 635(c) of the Tax Law.

5. That although Prudential Drilling Funds was organized in New York State, the firm's business activities were not carried on in New York State. Therefore, the business loss sustained by the petitioners was not derived from sources located in New York State.

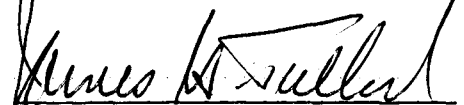
6. That the business loss sustained by the petitioners is not deductible for New York State purposes in accordance with the meaning and intent of section 632(a) of the Tax Law.

7. That petitioners' contention that their business loss would be deductible for New York State purposes as an itemized deduction is not valid within the meaning and intent of sections 635(c)(1) and 615(c)(3) of the Tax Law.

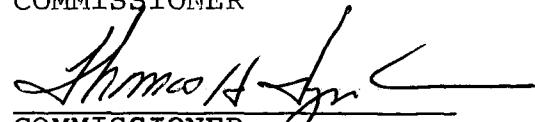
8. That the petition of the Estate of Louis Kohl and Florence Kohl is denied and the Notice of Deficiency in the sum of \$2,779.01 issued on March 25, 1974 is sustained.

DATED: Albany, New York
August 22, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER