

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ELIOT J. ROBINSON & ELAINE O. ROBINSON

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) ~~XXXXXX~~ Period(s)
1969

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 7th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Eliot J. Robinson & Elaine O.
Robinson ~~(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. Eliot J. Robinson
Bishops Lane
Hingham, Massachusetts 02043
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

7th day of June, 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELIOT J. ROBINSON & ELAINE O. ROBINSON

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 ~~(or) or Period(s)~~ :
1969

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 7th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Robert Gorn, CPA
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Robert Gorn, CPA
c/o Ernst & Ernst, CPA'S
225 Franklin Street
Boston, Massachusetts 02110
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

7th day of June, 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

June 7, 1977

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

Mr. & Mrs. Eliot J. Robinson
Bishops Lane
Hingham, Massachusetts 02043

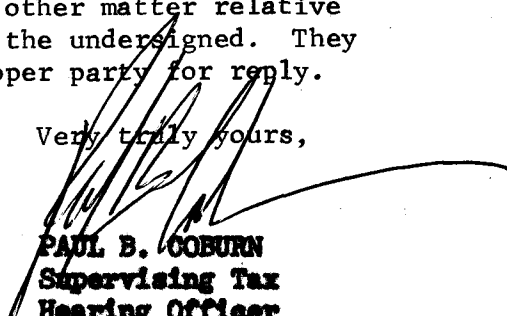
Dear Mr. & Mrs. Robinson:

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

Please take further notice that pursuant to
Section(s) **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: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
ELIOT J. ROBINSON AND ELAINE O. ROBINSON :
for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under Article 22 :
of the Tax Law for the Year 1969. :
:

DECISION

Petitioners, Eliot J. Robinson and Elaine O. Robinson, residing at Bishops Lane, Hingham, Massachusetts 02043, 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 1969. (File No. 00509).

A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 9, 1976 at 9:15 A.M. Petitioners appeared by Robert Gorn, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUES

I. Whether petitioner, Eliot J. Robinson, was a partner in the New York firm of Wood, Struthers and Winthrop.

II. Whether the income that petitioner, Eliot J. Robinson, received from the firm was his distributive share of partnership income derived from or connected with New York sources, and as such includable within New York adjusted gross income.

1. Petitioners, Eliot J. Robinson and Elaine O. Robinson, filed a 1969 New York State nonresident Income Tax return, reporting New York State income of \$1,060.00.

2. On December 23, 1974, the Income Tax Bureau issued a Notice of Deficiency and Statement of Audit Changes in the amount of \$25,085.02, plus interest of \$7,056.66, for a total of \$32,141.68 based on claimed partnership income earned by petitioner.

3. From 1965 through 1970, petitioner, Eliot J. Robinson, was a registered securities representative based in the Boston office of Wood, Struthers and Winthrop, a New York partnership engaged in the sale of securities. His income was derived entirely from commission sales, all of which occurred in the Boston area. He engaged in no personal or partnership activity in New York State.

4. In 1968, petitioner became a special partner in the firm. As such, he was entitled to a .5/90.5 share in the net profits of the partnership. In all other respects, petitioner's relationship to the firm was unchanged: He did not participate in the operation of the business; nor was he compensated on any basis other than a percentage of sales in the Boston area.

5. In 1969, petitioner, Eliot J. Robinson, received \$1,060.00 from the firm, in addition to earned commission of \$279,503.00.

6. Petitioner paid Massachusetts income tax on his earned commissions.

CONCLUSIONS OF LAW

A. That in 1969, petitioner, Eliot J. Robinson, was a nonresident limited or special partner in the firm of Wood, Struthers and Winthrop, a partnership formed and operated under the New York Partnership Law.

B. That petitioner's New York adjusted gross income properly included "...only the portion derived from or connected with New York sources of (his) distributive share of items of partnership income, gain, loss and deduction entering into his Federal adjusted gross income..." (Section 637 (emphasis supplied)).

C. That notwithstanding his formal status as a limited partner and his entitlement thereunder to a .5/90.5 share of partnership net profits, petitioner's income from, as well as his relationship to the firm, was predicated entirely on his sale of securities in the Boston area.

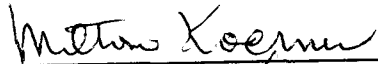
D. That petitioner's distributive or proportionate share of items of partnership income connected with New York sources amounted to \$1,060.00, which he properly reported as taxable New York income in 1969.

E. That the petition of Eliot J. Robinson and Elaine O. Robinson is granted and the Notice of Deficiency issued on December 23, 1974 is cancelled.

DATED: Albany, New York
June 7, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER