

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MYKOLA and SIGRID A. SEREDA

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) ~~on Period(s)~~ :
1966, 1967 and 1968.

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 21st day of June, 1977, she served the within
Notice of Decision by ~~(certified)~~ mail upon Mykola & Sigrid A.
Sereda (~~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. Mykola Sereda
4435 Bellechasse
Montreal, Canada
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)~~
~~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

21st day of June, 1977.

Marsina Donnini

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 21, 1977

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

Mr. & Mrs. Mykola Sereda
4435 Bellechasse
Montreal, Canada

Dear Mr. & Mrs. Sereda:

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

Please take further notice that pursuant to
Section ~~(a)~~ **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,

Frank J. Puccia

Frank J. Puccia

Supervisor of

Small Claims Hearings

Enc.

cc: ~~RECEIVED BY REPRESENTATIVE~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
MYKOLA AND SIGRID A. SEREDA : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Years :
1966, 1967 and 1968, :
:

Petitioners, Mykola and Sigrid Sereda, residing at 4435 Bellechasse, Montreal, Canada, 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 years 1966, 1967 and 1968. (File No. 13724).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on February 22, 1977 at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner, Mykola Sereda, appeared pro se and for his wife. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq., of counsel).

ISSUE

Whether petitioners, Mykola and Sigrid Sereda, are entitled to deduct for the years 1966, 1967 and 1968, amounts claimed as a foreign expropriation loss under section 165(a) of the Internal

Revenue Code carried over from the year 1964 pursuant to sections 172(b)(3)(C)(ii) and 172(b)(1)(D) of said code.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. During the year 1961, petitioner, Mykola Sereda, was a citizen of the Union of Soviet Socialist Republics.

2. During the year 1961, petitioner, Mykola Sereda, left the Union of Soviet Socialist Republics as a political refugee.

3. Article 56 of the Criminal Code of the Ukrainian Soviet Socialist Republic imposes a penalty of "ten to fifteen years of the deprivation of freedom and the confiscations of property" to one who escapes abroad or refuses to return.

4. After petitioner, Mykola Sereda, left the Union of Soviet Socialist Republics in 1961, the Soviet Government took custody of all of petitioner's properties that he left within its boundaries.

5. During the year 1962, petitioner Mykola Sereda, came to the United States and in 1963 applied for citizenship.

6. For the years 1966, 1967 and 1968, petitioner, Mykola Sereda, reported net operating losses, carried over from the year 1964, at which time petitioner contended he had no reasonable doubt that his properties were expropriated by the Soviet Government.

7. Petitioner, Mykola Sereda, effectively lost control and possession of his properties at the time he left the Union of Soviet Socialist Republics in the year 1961.

8. Petitioner, Mykola Sereda, sustained the foreign expropriation loss during the year 1961 and not during 1964, in accordance with the meaning and intent of section 165(a) of the Internal Revenue Code and Regulation 1.165-1(d).

9. Petitioner, Mykola Sereda, was not a resident of the United States during the year 1961 when the loss was sustained and therefore is not entitled to a "net operating loss" carry over in accordance with the meaning and intent of sections 172(b)(3)(C)(iii) and 172(b)(1)(D) of the Internal Revenue Code.

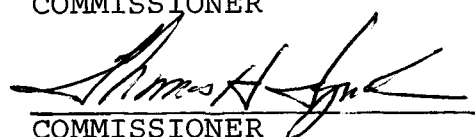
10. The petition of Mykola and Sigrid A. Sereda is denied and the Notices of Deficiency issued on September 29, 1969 and August 30, 1971, in the sums of \$542.91 and \$207.56, respectively, are sustained.

DATED: Albany, New York
June 21, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER