

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RALPH MULLIGAN

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) 22 of the :
Tax Law for the Year(s) ~~or Period(s)~~ :
1965 through 1970.

State of New York
County of Albany

John Huhn , 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 20th day of September , 19 78, she served the within
Notice of Decision by (certified) mail upon Ralph Mulligan
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Ralph Mulligan
P. O. Box 125
Pleasantville, New York 10570
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

20th day of September , 1978.

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RALPH MULLIGAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (22) of the :
Tax Law for the Year(s) or Period(s) :
1965 through 1970.

State of New York
County of Albany

John Huhn , 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 20th day of September , 1978 , she served the within
Notice of Decision by (certified) mail upon Charles F. Barrett, CPA

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Charles F. Barrett, CPA
275 Madison Avenue
New York, New York 10016

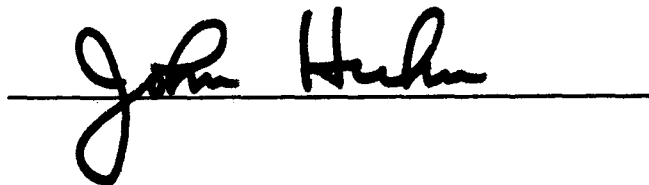
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

20th day of September , 1978







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

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

September 20, 1978

Mr. Ralph Mulligan
P. O. Box 125
Pleasantville, New York 10570

Dear Mr. Mulligan:

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 Chyrywat
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RALPH MULLIGAN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1965 through 1970.	:	

Petitioner, Ralph Mulligan, P.O. Box 125, Pleasantville, New York 10570, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1965 through 1970 (File No. 01340).

A small claims hearing was held before Philip Mercurio, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 2, 1977 at 9:15 A.M. Petitioner appeared by Charles F. Barrett, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (William Fox, Esq., of counsel).

ISSUES

I. Whether petitioner's proportionate share of partnership income, as determined by a field audit conducted by the Income Tax Bureau for the years 1965 through 1970, was correct.

II. Whether imputed interest (as determined by an Income Tax Bureau audit) on installment payments received by petitioner in connection with sales of real property was correct.

FINDINGS OF FACT

1. Petitioner, Ralph Mulligan, filed New York State resident income tax returns for the years 1965 through 1970.

2. The Income Tax Bureau conducted an audit of the partnership of Mulligan and McDonald, of which Ralph Mulligan was a member. Said audit resulted in an increase in partnership income. (It also resulted in a denial of an allocation of income, but that is of no relevance here, since petitioner is a resident of New York State.) As a result of the aforementioned adjustment, the Income Tax Bureau issued a Statement of Audit Changes to petitioner on January 30, 1973, increasing the partnership income reported by Ralph Mulligan. The statement also asserted additional personal income tax on interest imputed on installment payments received by petitioner, in connection with sales of real property.

3. Petitioner, Ralph Mulligan, was to submit additional information in connection with the interest imputed on installment sales; however, he did not submit any additional information or documents regarding said issue.

CONCLUSIONS OF LAW

A. That petitioner, Ralph Mulligan's proportionate share of partnership income for the years 1965 through 1970 from the partnership of Mulligan and McDonald (as determined in the State Tax

Commission decision in the Matter of the Petition of Mulligan and McDonald, signed on this date) was correctly computed by the Income Tax Bureau.

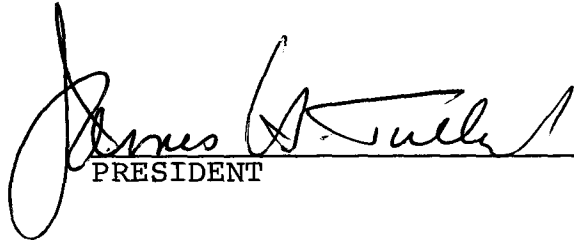
B. That petitioner, Ralph Mulligan, failed to sustain the burden of proof necessary to uphold his objection to the interest imputed in connection with installment sales, in accordance with section 689(e) of the Tax Law.

C. That the petition of Ralph Mulligan is denied and the Notice of Deficiency issued against him on March 26, 1973 is sustained, together with such interest as may be lawfully owing.


DATED: Albany, New York

STATE TAX COMMISSION

September 20, 1978


PRESIDENT


COMMISSIONER


COMMISSIONER