

STATE OF NEW YORK
STATE TAX COMMISSION

_____ :
In the Matter of the Petition :
of :
Sherman Abrahams :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Personal Income Tax :
under Article 22 of the Tax Law :
for the Years 1971 - 1975. :
_____ :

AFFIDAVIT OF MAILING

State of New York
County of Albany

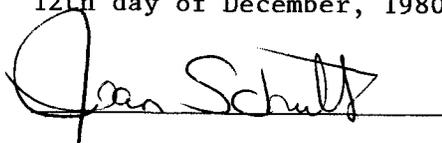
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 12th day of December, 1980, he served the within notice of Decision by certified mail upon Sherman Abrahams, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

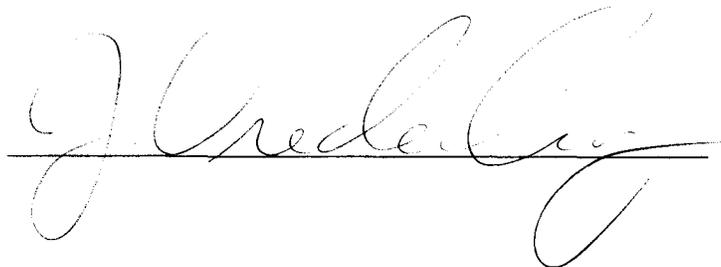
Sherman Abrahams
c/o Abrahams Bros.
119 W. 40th St.
New York, NY 10018

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
12th day of December, 1980.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Sherman Abrahams :
for Redetermination of a Deficiency or a Revision :
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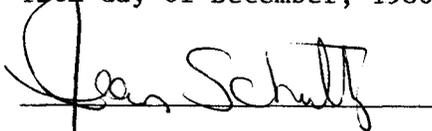
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 12th day of December, 1980, he served the within notice of Decision by certified mail upon T. Gorman Reilly the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. T. Gorman Reilly
Hahn, Hessen, Margolis & Ryan
350 Fifth Ave.
New York, NY 10036

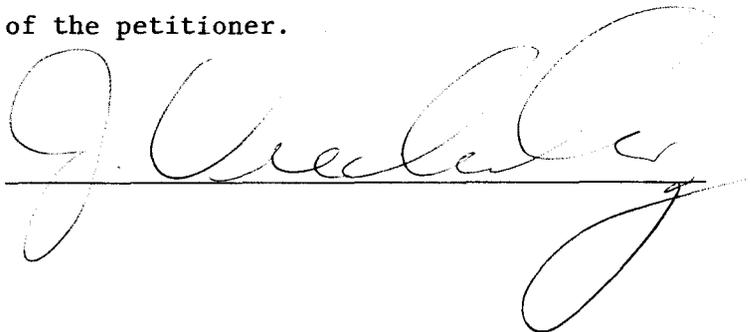
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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
12th day of December, 1980.



Jean Schult



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

December 12, 1980

Sherman Abrahams
c/o Abrahams Bros.
119 W. 40th St.
New York, NY 10018

Dear Mr. Abrahams:

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(s) 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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
T. Gorman Reilly
Hahn, Hessen, Margolis & Ryan
350 Fifth Ave.
New York, NY 10036
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
SHERMAN ABRAHAMS : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Years :
1971 through 1975. :

Petitioner, Sherman Abrahams, c/o Abrahams Brothers, 119 West 40th Street, New York, New York 10018, 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 1971 through 1975 (File No. 19665).

A formal hearing was held before Edward Goodell, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 20, 1979 at 1:15 P.M. Petitioner appeared by Hahn, Hessen, Margolis & Ryan, Esqs., (T. Gorman Reilly, Esq., of counsel) and by Main Lafrentz & Co. (Jay L. Dengrove, CPA). The Audit Division appeared by Peter Crotty, Esq. (Aliza Schwadron, Esq., of counsel).

ISSUE

Whether petitioner Sherman Abrahams, a nonresident partner of Abrahams Brothers, is entitled to allocate part of his distributive share of partnership income to sources outside New York State.

FINDINGS OF FACT

1. Petitioner, Sherman Abrahams, timely filed New York State nonresident income tax returns for the years 1971 through 1975.

2. Thereafter, petitioner duly executed consents extending the period of limitations for assessment for the years 1971 and 1972

until April 15, 1977.

3. On April 14, 1977, the Audit Division issued a Statement of Audit Changes against petitioner Sherman Abrahams for the tax years 1971 through 1975, asserting that additional taxes were due for each of said years for the reason stated in said Statement of Audit Changes that "Allocation of partnership income and New York State Modifications to gross income is disallowed since the allocation of Abrahams Brothers' Income was not allowed." Accordingly, a Notice of Deficiency was issued against petitioner Sherman Abrahams on April 14, 1977 imposing additional income taxes for the tax years 1971 through 1975 amounting in the aggregate to \$3,732.06, together with interest thereon of \$721.32, for a total deficiency of \$4,453.38.

4. Petitioner, Sherman Abrahams, timely filed a petition for redetermination of said deficiency or for refund of tax paid for the taxable years 1971 through 1975.

CONCLUSIONS OF LAW

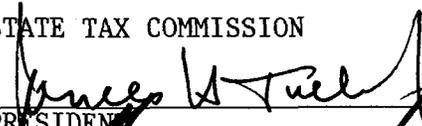
A. That petitioner Sherman Abrahams' proportionate share of partnership income derived from New York State sources for the years 1971 through 1975 from the partnership Abrahams Brothers (as determined in the State Tax Commission decision in the Matter of the Petition of Abrahams Brothers, signed on this date) was correctly reported by petitioner on his respective returns.

B. That the petition of Sherman Abrahams for 1971 through 1975 is granted and the Notice of Deficiency issued April 14, 1977 is cancelled.

DATED: Albany, New York

DEC 12 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER