

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

MICHAEL KARACSONY

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DECISION

for Redetermination of a Deficiency or for  
Refund of Personal Income and Unincorporated :  
Business Taxes under Articles 22 and 23 of the  
Tax Law for the Years 1980 and 1981.

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Petitioner, Michael Karacsony, c/o Schneider & Schneider, P.O. Box 7563, Greenwich, Connecticut 06836, filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1980 and 1981 (File No. 57904).

A hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 20, 1986 at 1:15 P.M. Petitioner appeared pro se. The Audit Division appeared by John P. Dugan, Esq. (Gary Palmer, Esq., of counsel).

ISSUE

Whether, as the result of a field audit, adjustments attributing additional income to petitioner for each of the years 1980 and 1981 were proper.

FINDINGS OF FACT

1. Michael Karacsony (hereinafter "petitioner") with his wife, Lillian Karacsony, filed a New York State Income Tax Resident Return for each of the years 1980 and 1981 under filing status "Married filing separately on one return." On said returns, he reported business income of \$22,281.00 (1980) and \$22,663.00 (1981) derived from his activities as a house painter and decorator. For taxable year 1980, petitioner filed a New York State Unincorporated Business Tax Return.

2. On August 17, 1984, the Audit Division issued a Statement of Personal Income Tax Audit Changes to petitioner wherein the following adjustments were made :

	<u>1980</u>	<u>1981</u>
"Additional Income as a result of field audit		
Source and application of funds analysis	\$68,716.00	\$28,172.00
Statutory Medical Adjustment due to a change in gross income	539.00	-0-
Interest Expense on business loans	248.00	527.00
Sales Tax omitted from business expenses	-0-	(3,077.00)
Unincorporated Business Tax Modification	--	504.00
Net Adjustment	<u>\$69,503.00</u>	<u>\$26,126.00"</u>

3. On August 17, 1984, the Audit Division also issued a Statement of Unincorporated Business Tax Audit Changes to petitioner wherein the following adjustments were made:

	<u>1980</u>
Source and application of funds analysis	\$68,716.00
Interest Expense on business loans	248.00
Allowance for Taxpayer Services	(544.00)
Net Adjustment per Audit	<u>\$68,420.00"</u>

4. Petitioner executed a consent form which extended the period for assessment of 1980 taxes to any time on or before April 15, 1985.

5. On November 5, 1984, the Audit Division issued a Notice of Deficiency against petitioner asserting personal income taxes for 1980 and 1981 of \$13,156.32 unincorporated business tax for 1980 of \$2,746.05, penalties of \$2,143.77, and interest of \$6,500.31, for a total due of \$24,546.45. Said penalties were asserted pursuant to sections 685(a)(1), 685(a)(2) and 685(b) of the Tax Law for late filing of petitioner's 1980 personal income tax and unincorporated

business tax returns,<sup>1</sup> late payment of the taxes due with such returns, and negligence for 1980 and 1981, respectively.

6. The aforestated adjustments of \$68,716.00 (1980) and \$28,172.00 (1981) were computed by the Source and Application of Funds Analysis method of income reconstruction as follows:

	<u>1980</u>	<u>1981</u>
<u>Sources of Funds</u>		
Interest Income	\$ 5,508.00	\$ 8,535.00
Business Income	22,281.00	22,663.00
Business Depreciation	288.00	288.00
Rental Income	6,000.00	6,000.00
<u>Decrease in account balances</u>		
Greenwich Savings #8501287-8	277.00	
4th Federal Savings #1099	481.00	5,033.00
Greenwich Savings #8501799-2	10,545.00	
United Mutual f7-153783		98.00
Greenwich Savings #9027317-6		14,261.00
Scarsdale National #0153457		5,507.00
Chemical Bank checking - Business		8,960.00
Scarsdale National 83024709468		20,000.00
Total Sources	<u>\$ 45,380.00</u>	<u>\$ 91,345.00</u>
<u>Application of Funds</u>		
Rental Expenses (net of depreciation)	\$ 5,257.00	\$ 5,674.00
Auto Purchase	1,200.00	
Stock Purchases (E.F. Hutton, Merrill Lynch)		37,381.00
<u>Increase in account balances</u>		
Greenwich Savings Q9027.317-6	14,261.00	
Scarsdale National #01534517	204.00	
Chemical Bank checking (business)	5,354.00	
Scarsdale National checking (personal)	682.00	2,520.00
Scarsdale National #302470968	20,000.00 <sup>2</sup>	
Scarsdale National #3024702609	6,603.00 <sup>2</sup>	
Greenwich Savings #9017588-4	5,282.00 <sup>2</sup>	
Greenwich Savings #9019032-1	6,500.00 <sup>2</sup>	
Emigrant Savings #5000013006	10,651.00 <sup>2</sup>	2,868.00 <sup>2</sup>

1 Section 722(a) of Article 23 incorporates sections 685(a)(1), 685(a)(2) and 685(b) of Article 22 for unincorporated business tax purposes.

2 Since petitioner has continuously failed to provide documentation of these accounts, the balances have been estimated by the Commissioner.

Greenwich Savings #9034381-3		10,305.00
Scarsdale National #302471459-5		14,100.00
Scarsdale National #3024712825		16,000.00
Payments on Business Loans	1,560.00	
Cost of Living Analysis	36,542.00	30,669.00
Total Applications	<u>\$114,096.00</u>	<u>\$119,517.00</u>
Understatement of Income	<u>\$ 68,716.00</u>	<u>\$ 28,172.00</u>

7. Although petitioner vehemently disagreed with the audit findings, he failed to submit any documentation which would warrant a decrease in the aforestated adjustments.

CONCLUSIONS OF LAW

A. That petitioner has failed to sustain his burden of proof, imposed pursuant to sections 689(e) and 722(a) of the Tax Law, to show that the adjustments made by the Audit Division were erroneous or improper. Accordingly, such adjustments are sustained in their entirety.

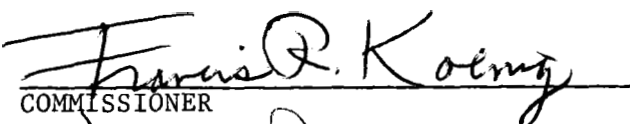
B. That the petition of Michael Karacsony is denied and the Notice of Deficiency issued November 5, 1984 is sustained, together with such additional penalties and interest as may be lawfully owing.

DATED: Albany, New York

STATE TAX COMMISSION

9EP 15 1986

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PRESIDENT

  
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COMMISSIONER

  
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COMMISSIONER