

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
FRANK NAPOLI

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1965

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 22nd day of February , 19 72, she served the within Notice of Decision (or Determination) by (certified) mail upon Frank Napoli

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Frank Napoli
74 Cerenzia Blvd.
Elmont, L.I., New York

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

22nd day of February , 1972.

Linda Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

February 22, 1972

Frank Napoli
74 Cereusia Blvd.
Elmont, L.I., New York

Dear Sir:

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 decision must be commenced
within **4 Months** after the date of this notice.

Any inquiries concerning the computation of tax due or
refund allowed in accordance with this decision or
concerning any other matter relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Lawrence A. Newman
Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
FRANK NAPOLI : DECISION
for Redetermination of a Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Year 1965. :

Frank Napoli filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1965. A formal hearing was held before Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission, in the City of New York on July 21, 1971. The Income Tax Bureau was represented by Edward H. Best, Esq., (Solomon Sies, Esq., of Counsel). Mr. Frank Napoli appeared and testified.

ISSUE

Whether a deduction of \$3,000.00 in alleged gambling losses may be offset against a reported gambling gain of \$7,968.40.

FINDINGS OF FACT

1. The petitioner, Frank Napoli, and his wife, Antoinette Napoli, jointly filed a timely New York State income tax return for the year 1965, without a remittance.
2. On May 20, 1968, the Income Tax Bureau issued a Notice of Deficiency under File No. 44359056, in the amount of \$185.94, plus interest.
3. Frank Napoli filed a timely petition for redetermination of the deficiency.
4. Early in the year 1965, the petitioner purchased what later proved to be, a winning "twin-double" pari-mutuel ticket at Yonkers Raceway. The proceeds received by the petitioner on this ticket amounted to \$7,968.40.

5. The petitioner testified that he is an habitual gambler. As a result, he had large unpaid loans outstanding, and was assisted by relatives to meet the living expenses of his family.

6. The petitioner testified that he visited the race tracks on many occasions during the balance of the year, and lost, in wagering, about half of the winnings that he had reported. Pari-mutuel tickets of the losing wagers were not preserved by the petitioner, nor was any other record maintained of the losing wagers.

7. The petitioner was regularly employed by the New York City Housing Authority, and received a salary of \$8,578.00 in the year 1965.

8. The petitioner failed to substantiate the alleged losses in the amount of \$3,000.00 which were offset against the reported gambling gain of \$7,968.40.

DECISION

A. The amount of \$3,000.00 which was claimed as gambling losses is disallowed as unsubstantiated.

B. The deficiency is sustained, and the petition is denied.

DATED: Albany, New York

February 22, 1972

STATE TAX COMMISSION

Thomas Gallivan
COMMISSIONER

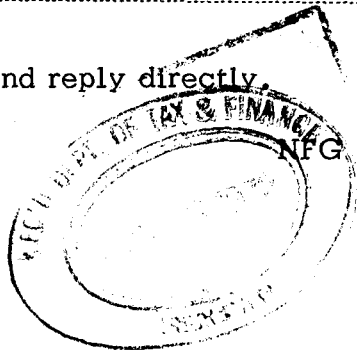
Bruce Mawley
COMMISSIONER

Milton Kover
COMMISSIONER

To Mr. Rook

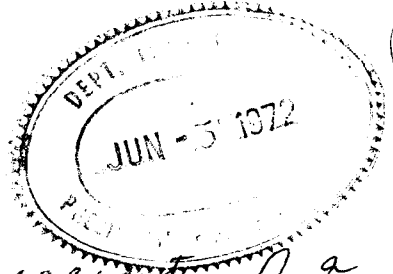
6/6/72

Please pursue and reply directly.



From Norman Gallman
Acting Commissioner

Mr. Hooker
please pursue
& reply directly



Dear Mr. Newman:

I am in receipt of a letter dated Feb 22, 1972 in which the decision of the State Tax Commission is stated. It further states that I can review the decision within 4 months - but we know how hard you be kind enough to ~~tell me~~ how I go about doing this? I can not afford a lawyer and I cannot possibly pay the tax assessment. In spite of the decision, I am a compulsive gambler and I am broke.

Thank you very much for your help.

Yours Truly
Frank Napoli



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
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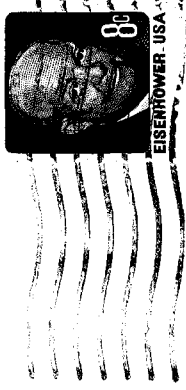
Lawrence A. Newman
Hearing Officer

cc Petitioner's Representative
Law Bureau

Frank Napoli
74 Clermont Blvd
Elmont, L.I.C. N.Y.



State Tax Commission
Norman A. Callman
Building 9 Room 214A
State Campus Albany, N.Y. 12227



Napoli, Frank
Personal Welcome
1972

June 9, 1972

Mr. Frank Napoli
74 Cerenzia Blvd.
Elmont, L.I., New York

Re: Decision dated February 22, 1972

Dear Mr. Napoli:

Your recent undated letter, addressed to the State Tax Commission was referred to me for reply.

The review you are seeking is afforded to a petitioner under the provisions of Article 78 of the Civil Practice Law and Rules. For this purpose, an action must be commenced in New York State Supreme Court within four months of the date of the mailing of the decision.

In order to appeal the decision you must either post a bond in the amount of the tax or pay the tax which would be refunded in the event you prevailed in court.

The court action must be commenced before the Supreme Court in Albany County. It is not required that you have a lawyer, however, there are no facilities to assist you in preparing your papers.

Sincerely,

Edward Rook
Secretary to the
State Tax Commission