

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
MAFALDA PASSERO, PRES. of
PASSERO CONTRACTING CO., INC. and
JAMES PASSERO
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) 1967, 1968
and 1969.

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

State of New York
County of Albany

Rae Zimmerman , 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 4th day of May , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon James Passero

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: James Passero
c/o Passero Contracting Co., Inc.
79 Callingham Road
Pittsford, 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
4th day of May , 19 72

Lynn Wilson

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

MAFALDA PASSERO^{of}, PRES. of
PASSERO CONTRACTING CO., INC. and
JAMES PASSERO
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) 1967, 1968 and
1969

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

State of New York
County of Albany

Rae Zimmerman, 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 4th day of May, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Mafalda Passero, Pres.

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mafalda Passero, Pres.
Passero Contracting Co., Inc.
79 Callingham Road
Pittsford, 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

4th day of May, 1972

Lynn Wilson

Rae Zimmerman



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

MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

ADDRESS YOUR REPLY TO

DATED: Albany, New York
May 4, 1972

**Mafalda Passero, Pres.
Passero Contracting Co., Inc.
79 Callingham Road
Pittsford, New York**

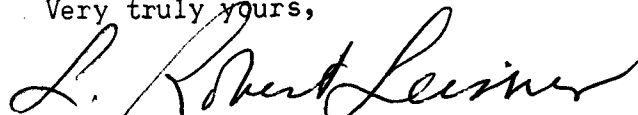
Dear Sir:

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,


L. Robert Leisner
Hearing Officer

cc Petitioner's Representative
Law Bureau



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

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

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
May 4, 1972

James Passero
c/o Passero Contracting Co., Inc.
79 Callingham Road
Pittsford, 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,

L. Robert Leisner
L. Robert Leisner

Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
MAFALDA PASSERO, Pres. of :
PASSERO CONTRACTING CO., INC. : DECISION
AND :
JAMES PASSERO :
for a Redetermination of a Deficiency or :
for Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Years :
1967, 1968 and 1969. :

The taxpayers applied for a redetermination of a deficiency in personal income taxes under Article 22 of the Tax Law for the years 1967, 1968 and 1969. Formal hearings were held at the offices of the State Tax Commission in Rochester, New York on July 12, July 15, and November 8, 1971, before L. Robert Leisner, Hearing Officer.

The taxpayers appeared personally and the Income Tax Bureau was represented by Edward H. Best, Esq. (Alexander Weiss, Esq., of Counsel).

ISSUE

The only issue was the factual question of the amount of payments made on the deficiency by taxpayers and by a related taxpayer.

FINDINGS OF FACT

1. The Income Tax Bureau issued a Notice of Deficiency against the taxpayers for income tax on January 26, 1970, for the years 1967, 1968 and 1969. The deficiencies involved penalties against responsible parties for withholding taxes.
2. The taxpayers filed a petition requesting redetermination of the deficiencies.
3. On November 8, 1971, the taxpayers stipulated that the deficiencies for 1967 and 1968, were correct.

4. At times, payments were made by checks of others through joint venture arrangements, during all the years involved.

5. The Bureau schedules reflect differences of application of payments made through the joint ventures, and also differences as to time of credits involving fiscal periods. From both the schedules of the Bureau and the records of the taxpayer, it is found that the unpaid balance for 1969, is \$5,890.11.

CONCLUSIONS OF LAW

A. The deficiencies for 1967 and 1968, are sustained in full.

B. The deficiency for 1969, against the taxpayers, is erroneous in part and is redetermined to be \$5,890.11.

DATED: Albany, New York

STATE TAX COMMISSION

May 4, 1972

Norman Gallivan
COMMISSIONER

Russ Manley
COMMISSIONER

Milton Koenig
COMMISSIONER