

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ANTHONY & MARY COCO

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

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 23rd day of February , 19 73, she served the within Notice of Decision (or Determination) by (certified) mail upon Anthony & Mary Coco (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Anthony & Mary Coco
2048 Lyell Avenue
Rochester, New York 14606
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

23rd day of February , 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ANTHONY & MARY COCO

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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 23rd day of February , 1973 , she served the within Notice of Decision (or Determination) by (certified) mail upon Sylvester J. Zicari & Co. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Sylvester J. Zicari & Co.
135 State Street
Rochester, New York 14614

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

23rd day of February , 1973

Lynn 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 23, 1973

Anthony & Mary Cocco
2048 Lyell Avenue
Rochester, New York 14606

Dear Mr. & Mrs. Cocco:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 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 relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leimer
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ANTHONY and MARY COCO :
for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Year 1967. :
:

DECISION

Petitioners, Anthony and Mary Coco, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1967. (File No. 7-72015824).

(The case was submitted for decision on information contained in the file.)

The Income Tax Bureau was represented by Saul Heckelman, Esq., Counsel.

ISSUE

Did the taxpayers show error in the amount of food determined to have been withdrawn from their grocery business for seven persons in the year 1967?

FINDINGS OF FACT

1. Petitioners, Anthony and Mary Coco, timely filed New York State income tax returns for the year 1967.
2. A Notice of Determination of deficiencies in personal income taxes for the year 1967 was issued on March 16, 1970 against the taxpayers under File No. 7-72015824.
3. The taxpayers petitioned for redetermination of the deficiencies.
4. The taxpayers operated a grocery store in 1967. The taxpayers estimated \$750.00 of food withdrawn from the cost of goods

sold for seven persons. A field audit was conducted and the Income Tax Bureau determined that the food withdrawn from the grocery store reduced the cost of goods sold in the amount of \$2,800.00.

CONCLUSIONS OF LAW

A. The burden of proof is on the taxpayers to show by records or other evidence that the determination of the Income Tax Bureau is erroneous. Taxpayers are required to keep proper records of items of income and expense. The taxpayers failed to produce records or other evidence of the amount of food withdrawn from their grocery.

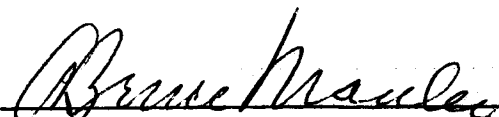
B. The taxpayers' petition is denied and the determination of the deficiency is sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
February 23, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER