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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

THOMAS and MADELINE McARDLE

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) 1964

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 21st day of September , 1973 , she served the within Notice of Decision (or Determination) by (certified) mail upon Thomas & Madeline McArdle (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Thomas McArdle
149-55 20th Avenue
Whitestone, 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

21st day of September , 1973.

Joyce S. Van Pelt

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Irving M. Levine, Esq.
42-27 Union Street
Flushing, 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.

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Sworn to before me this

21st day of September , 1973.

Joyce A. Van Patten

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
Mario A. Procaccino,
~~XXXXXXXXXXXX~~ PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

September 21, 1973

Mr. & Mrs. Thomas McArdle
149-55 20th Avenue
Whitestone, New York

Dear Mr. & Mrs. McArdle:

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 deci-
sion must be commenced within **4 Months**
from 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 relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
THOMAS and MADELINE McARDLE : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1964. :

Petitioners, Thomas and Madeline McArdle, filed a petition pursuant to section 689 of the Tax Law for redetermination of deficiency in personal income tax under Article 22 of the Tax Law for the year 1964.

A hearing was held on August 12, 1968, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Evelyn King, Hearing Officer. Petitioners, Thomas and Madeline McArdle, were represented by Irving M. Levine, Esq.

The record of this hearing has been duly examined and considered.

ISSUE

The issue is the propriety of petitioners' claimed itemized deductions and rental loss.

FINDINGS OF FACT

1. Petitioners claimed a \$700.00 deduction for contributions and were allowed nothing by the Income Tax Bureau. A letter from the assistant pastor of St. Luke's Church, Whitestone, New York, has been submitted which indicates a contribution of \$300.00 by petitioners to this church.

Petitioners claimed \$100.00 as given to Catholic charities and \$100.00 as given for miscellaneous contributions. Receipts totaling \$110.00 have been submitted for these two preceding items.

A contribution of \$200.00 is claimed as the fair market value of items given to the Salvation Army. No evidence has been submitted to establish the fact of the gift nor the value of the items claimed.

2. Interest expense of \$315.00 was claimed by petitioners. Of this expense, \$157.22 is substantiated by a letter from the Whitestone Savings and Loan Association.

3. Petitioners claimed a deduction of \$2,015.00 for taxes and were allowed nothing. A letter from the Whitestone Savings and Loan Association was received which states a payment in real estate taxes of \$462.00 on petitioners' mortgaged property in Whitestone, New York. A cancelled check amounting to \$256.00 has been submitted to establish real estate taxes paid by petitioners to the Township of Brick Ocean County. An amount of \$11.80 paid for water and sewer tax was claimed as a deductible item.

Sales tax amounting to \$150.00 was claimed by petitioners as a reasonable estimate of taxes paid. Fifty dollars claimed for gasoline tax was based on 12,000 nonbusiness mileage driven.

An amount of \$128.00 represents the sales tax paid on purchase of a 1964 Buick stationwagon for 1964.

Withholding tax by the State for 1964 amounted to \$957.54.

4. The Income Tax Bureau disallowed \$1,750.00 claimed for other deductions which included business and entertainment expenses. Petitioner, Thomas McArdle, was a salesman for Kelnoid, Inc., Long Island City, New York. The business expenses claimed by petitioners on their return was the excess expenses over the \$1,200.00 that was reimbursed to petitioner, Thomas McArdle, by Kelnoid, Inc.

The claimed business deduction included depreciation on a business car purchased in 1964 for \$3,200.00. Depreciation was taken at 40% for the first year of a four year life claimed for the car. Receipts for gasoline and oil for this car paid to Humble Oil Co., have been submitted which amounts to \$564.94. No separate receipts have been

submitted to substantiate the \$40.00 claimed for repairs. Checks paid to the Blake Agency, Inc. for car insurance amounting to \$300.00 have been submitted along with a \$6.00 check for a license fee paid on petitioner, Thomas McArdle's business car. No receipts were submitted for claimed car washes, garage and parking expenses. This car was used five-sevenths of the time for business. Checks to the telephone company amounting to \$130.00 have been submitted. Of that amount, petitioner claims \$72.00 as business calls.

5. An amount of \$577.36 was claimed by petitioner, Thomas McArdle, as an entertainment expense. Neither adequate records nor sufficient corroborative evidence has been submitted to substantiate the entertainment expenses.

6. Petitioners claimed a net loss of \$375.71 on rental property. During 1964, an amount of \$720.00 was received from tenants renting one half of petitioners' house. Depreciation at the rate of one half of 4% amounting to \$240.00 was claimed on this house. Improvements to this house were depreciated at one half of 10% which amounted to \$260.00 for 1964. Petitioners were allowed depreciation on these items in previous years. A depreciation of 20% on an appliance with a five year life which amounted to \$80.00 was claimed by petitioners.

Readjustments for monies spent by petitioners on tenants' apartment were made at the hearing through submitted receipts. The amounts expended on the rental property included plumbing, \$68.31; fuel oil, \$185.60; house insurance, \$51.00; and legal fees on the rental property of \$35.00. An amount of \$110.00 claimed for paint was paid in the following year on January 25, 1965. Of this amount, \$18.00 was for tenants' apartment.

CONCLUSIONS OF LAW

A. Petitioners have substantiated some portions of their itemized deductions. The allowances for the itemized deductions

are to be: \$410.00 for contributions (\$300.00 to St. Luke's Church plus \$110.00 to Catholic charities and miscellaneous); \$157.22 for interest expense; \$2,003.54 for taxes (\$462.00 plus \$256.00 for real estate taxes (\$11.80 for water sewer tax was nondeductible), plus \$150.00 for sales tax, plus \$50.00 for gasoline tax, plus \$128.00 sales tax on car, plus \$957.54 withheld New York tax; \$1,608.40 for other deductions, auto expense (five-sevenths times \$1,280.00) for car depreciation, plus \$564.94 for gasoline, plus \$300.00 for car insurance, plus \$6.00 for license plates, plus \$72.00 for telephone expenses.

B. Unsubstantiated deductions which include repairs, garage, parking, and carwash expenses on the business car and entertainment expenses are disallowed.

C. The business expense reimbursement of \$1,200.00 received by petitioner, Thomas McArdle, is to be included in gross income.

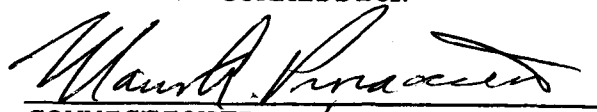
D. Petitioners have substantiated a portion of their claimed rental loss. The rental loss is \$200.00, (\$720.00 received as rent, less \$580.00 for depreciation on house, improvements and appliance, less \$340.00 expended on tenant apartment). The paint expense excluded was incurred in 1965.

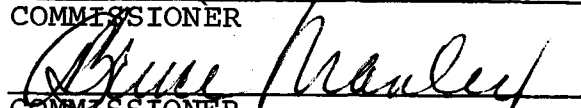
DECISION


The deficiency is recomputed to be \$188.70 plus interest from April 15, 1965 to July 26, 1966, of \$13.89 together with such further interest as may be due under section 684 of the Tax Law; in all other respects the petition is denied.

DATED: Albany, New York
September 21, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER