

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petitions

of

MICHAEL F. GALLAGHER
LILLIAN L. GALLAGHER

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

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) 1966, 1967 and
1968.

State of New York
County of Albany

JANET MACK, 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 24th day of March, 1975, she served the within
Notice of Decision (~~XXXXXXXXXXXX~~) by (certified) mail upon MICHAEL F. GALLAGHER
LILLIAN L. GALLAGHER
~~(XXXXXXXXXXXX)~~ the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
Mr. and Mrs. Michael F. Gallagher
wrapper addressed as follows: Michael F. Gallagher, Inc.
9 Parkview Drive
Bronxville, 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 ~~(XXXXXXXXXXXX)~~
~~(X)~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~(XXXXXXXXXXXX)~~ petitioner.

Sworn to before me this

24th day of March, 1975

Katherine D. Manly

Janet Mack



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

~~Saul Heckelman, Acting President~~

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
March 24, 1975

Mr. and Mrs. Michael F. Gallagher
Michael F. Gallagher, Inc.
9 Parkview Drive
Bronxville, New York

Dear Mr. and Mrs. Gallagher:

Please take notice of the **DECISIONS**
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: ~~Retention and Record Section~~
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

MICHAEL F. GALLAGHER :

DECISION

for the Redetermination of a Deficiency
or for Refund of Personal Income Tax :
under Article 22 of the Tax Law for the
Years 1966, 1967 and 1968. :

In the Matter of the Petition :

of :

LILLIAN L. GALLAGHER :

DECISION

for a Redetermination of a Deficiency :
or for Refund of Personal Income Tax
under Article 22 of the Tax Law for :
the Years 1966, 1967 and 1968.

Michael F. Gallagher and Lillian L. Gallagher, Nine Parkview Drive, Bronxville, New York, each filed a petition under section 689 of the Tax Law for the redetermination of a deficiency in personal income tax under Article 22 of the Tax Law for the years 1966, 1967 and 1968.

Said deficiency was asserted against each petitioner by separate notices each dated March 31, 1969, under file number 13-2517896 and in the amount of \$12,308.40.

A hearing was duly held on December 16, 1974, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioners appeared without representation. The Income Tax Bureau was represented by Saul Heckelman, Esq. appearing by Alexander Weiss, Esq.

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

ISSUE

The issue in this case is the responsibility of petitioners for the withholding taxes of a corporation.

FINDINGS OF FACT

1. Michael F. Gallagher, Inc. was incorporated and began business around January 1, 1964, in Bardonia, Rockland County, New York. It did business as an excavation contractor. It rented its equipment.

2. The corporation failed to pay over withholding taxes.

3. Michael F. Gallagher was President of the corporation until March 15, 1966, and admits liability for the withheld taxes. His wife, Lillian L. Gallagher, was a nominal officer only and took no part in business affairs.

4. Of the original amount determined to be due from the officers of \$12,308.40 the amount of \$5,612.26 has been abated

leaving a sum still due of \$6,696.14. Mr. Gallagher admits that this reduced sum is close to his own estimate from his own records.

5. Michael F. Gallagher, Inc. was adjudicated a bankrupt on August 12, 1968. The trustee in bankruptcy has paid to the State on its claim for withheld taxes the amount of \$2,717.12.

CONCLUSIONS OF LAW

Lillian L. Gallagher is not liable for the withheld taxes. The deficiency against her is cancelled. Michael F. Gallagher is liable but the amount of liability shall be reduced by the amount of the abatement and the payment from the corporation.

The deficiency against him is redetermined to be \$3,979.02.

DATED: Albany, New York
March 24, 1975

STATE TAX COMMISSION

PRESIDENT



COMMISSIONER



COMMISSIONER