

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

W. BART and SUE ANN BIELAWSKI

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article (x) 22 of the
Tax Law for the Year (or ~~Period~~) 1972. :

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 7th day of June , 1977, he served the within
Notice of Decision by (certified) mail upon W. Bart & Sue Ann
Bielawski (~~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. W. Bart Bielawski
25 Hillcrest Drive
Painted Post, New York 14870

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 Postal Service within the State of New York.

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

7th day of June , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

W. BART and SUE ANN BIELAWSKI

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year ~~(x) 1971~~ 1972. :

State of New York
County of Albany

Bruce Batchelor, 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 7th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Walter R. Conlin

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Walter R. Conlin, P.A.
P.O. Box 1386
Corning, New York 14830

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 Postal Service within the State of New York.

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

7th day of June, 1977.

Bruce Batchelor

Janet Nash



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 7, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. W. Bart Bielawski
25 Hillcrest Drive
Painted Post, New York 14870

Dear Mr. & Mrs. Bielawski:

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

Please take further notice that pursuant to
Section(~~11~~) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia

Frank J. Puccia

Supervisor of

Small Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
W. BART and SUE ANN BIELAWSKI : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Year 1972. :

Petitioners, W. Bart and Sue Ann Bielawski, residing at 25 Hillcrest Drive, Painted Post, New York 14870, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1972. (File No. 2-26824542). A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Governmental Civic Center, 44 Hawley Street, Binghamton, New York, on October 19, 1976, at 9:15 A.M. Petitioner, W. Bart Bielawski, appeared pro se and for his wife, and by Walter R. Conlin, P.A. The Income Tax Bureau appeared by Peter Crotty, Esq., (James Scott, Esq., of counsel).

ISSUE

Did petitioners, W. Bart and Sue Ann Bielawski, properly deduct and substantiate the amounts claimed on their 1972 New York State personal income tax return for employee business expenses, casualty loss and contributions?

FINDINGS OF FACT

1. Petitioners, W. Bart and Sue Ann Bielawski, filed a timely New York State combined personal income tax return for the year 1972. On their return they claimed employee business expenses of \$1,420.26, a casualty loss of \$7,775.00 and charitable contributions of \$1,622.63. The Income Tax Bureau issued a Statement of Audit Changes on March 22, 1974 disallowing all of the employee business expenses claimed upon the grounds that reimbursable travel expenses were not deductible because petitioner, W. Bart Bielawski, did not choose to request reimbursement of said expenses from his employer. The Income Tax Bureau also disallowed the entire casualty loss claimed because petitioners, W. Bart and Sue Ann Bielawski, did not submit documentation or substantiation to support the deduction. Charitable contributions in the amount of \$952.53 were disallowed upon the grounds that petitioners failed to substantiate more than \$670.10 of the \$1,622.63 claimed. A Notice of Deficiency was issued July 29, 1974 to petitioners, W. Bart and Sue Ann Bielawski, for the year 1972 in the amount of \$581.96 additional personal income tax due, plus \$56.20 interest, for a sum of \$638.16.

2. Petitioner, W. Bart Bielawski, was employed by Corning Glass Works, Corning, New York, as a senior marketing specialist during the year 1972. He contended that he used his car for local, business connected, travel. He was not reimbursed for the expenses

so incurred nor did he request reimbursement from his employer. Petitioner, W. Bart Bielawski, failed to submit any documentary or other substantial evidence to show that he had incurred employee business expenses in the amount of \$1,420.26 during said year.

3. As the result of a flood on June 23, 1972, caused by heavy rains, W. Bart and Sue Ann Bielawski, sustained a casualty loss, after provision for the \$100.00 limitation, in the amount of \$4,087.50 during the year 1972. Petitioners, W. Bart and Sue Ann Bielawski, failed to submit satisfactory evidence in excess of this amount.

4. During the year 1972, petitioners, W. Bart and Sue Ann Bielawski, made charitable contributions totaling \$695.10. They failed to submit documentary or other satisfactory evidence in excess of this amount.

CONCLUSIONS OF LAW

A. That the amount claimed for employee business expense of \$1,420.26 was not a proper deduction in accordance with the meaning and intent of section 162 of the Internal Revenue Code.

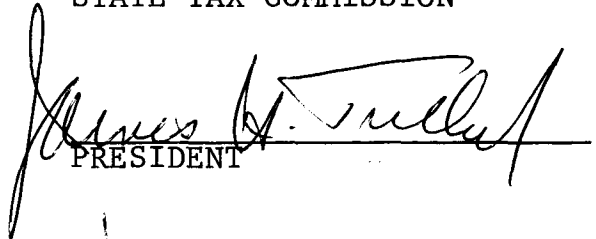
B. That the petition of W. Bart and Sue Ann Bielawski is granted to the extent of reducing the disallowance of the casualty loss from \$7,775.00 to \$3,687.50 and of reducing the disallowance of the charitable contributions from \$952.53 to \$927.53. The additional personal income tax due from petitioner, W. Bart Bielawski, is reduced from \$290.98 to \$157.37, together with such interest as may be lawfully due and the additional personal income

tax due from petitioner, Sue Ann Bielawski, is reduced from \$290.98 to \$157.37 together with such interest as may be lawfully due; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued July 29, 1974 and, except as so granted, the petition is in all other respects denied.

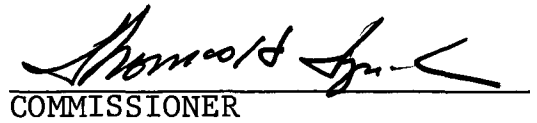
DATED: Albany, New York

June 7, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER