

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

OAKLEY C., JR. and JUNE M. BUSH

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 ~~(1976)~~ 1970.:

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 12th day of May, 1977, she served the within  
Notice of Decision by (certified) mail upon Oakley C., Jr. &  
June M. Bush (~~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. Oakley C. Bush, Jr.  
2983 Old Sullivanville Road  
Horseheads, New York 14845

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

12 thday of May, 1977

Bruce Batchelor

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

May 12, 1977

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

Mr. & Mrs. Oakley C. Bush, Jr.  
2983 Old Sullivanville Road  
Horseheads, New York 14845

Dear Mr. & Mrs. Bush:

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

Please take further notice that pursuant to  
Section(x) **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: ~~Production of Documents~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition  
of  
OAKLEY C., JR. and JUNE M. BUSH  
for Redetermination of Deficiency or  
for Refund of Personal Income Taxes  
under Article 22 of the Tax Law for  
the Year 1970.

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DECISION

Petitioners, Oakley C., Jr. and June M. Bush, residing at 2983 Old Sullivanville Road, Horseheads, New York 14845, filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970. (File No. 11329). On November 6, 1976, they advised the State Tax Commission in writing that they desired to waive a small claims hearing and to submit the case to the State Tax Commission upon the entire record contained in the file.

ISSUE

Whether New York State personal income tax was withheld from petitioner, Oakley C. Bush, Jr.'s compensation by his principal, Robert Margeson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Oakley C. Bush, Jr., indicated that he did not receive a tax and wage statement from his employer, Robert Margeson for the year 1970. Petitioner estimated that he received wages in 1970 of \$5,000.00 from Mr. Margeson and that New York State income tax of \$240.20 was withheld from such wages. Petitioner claimed such estimated amounts on his 1970 New York State income tax return.

2. Robert Margeson contended that petitioner, Oakley C. Bush, Jr., was an independent contractor and that no New York State income taxes were withheld from the \$3,143.00 which he paid to petitioner in 1970.

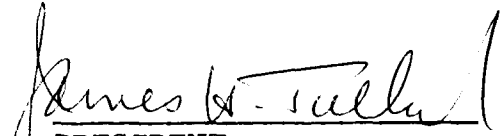
3. Petitioner, Oakley C. Bush, Jr., did not submit documentation or substantial evidence to support his estimation of tax withheld of \$240.20, or that, in fact, any taxes had been withheld from his compensation by said principal.

4. That petitioners, Oakley C., Jr. and June M. Bush, failed to sustain the burden of proof in accordance with section 689(e) of the Tax Law that any New York State personal income tax was withheld from petitioner, Oakley C. Bush, Jr.'s compensation in the year 1970 by his principal.

5. That the petition of Oakley C., Jr. and June M. Bush is denied and the Notice of Deficiency in the amount of \$212.54 issued November 26, 1973 is sustained.

DATED: Albany, New York  
May 12, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER