

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MARY KAPLAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of ~~Personal Income and~~ :  
~~Unincorporated Business~~ :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the Year(s) ~~1968 and 1969~~ :  
1968 and 1969.

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 14th day of April , 1977 , ~~she~~ served the within  
Notice of Decision by (certified) mail upon Mary Kaplan  
(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Ms. Mary Kaplan  
433 Beach 127th Street  
Belle Harbor, New York 11694

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

14th day of April , 1977

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MARY KAPLAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income and :  
Unincorporated Business :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1968 and 1969.

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 14th day of April, 1977, ~~she~~ served the within  
Notice of Decision by (certified) mail upon Malcolm Richard

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Malcolm Richard, Esq.  
80-57 215th Street  
Hollis Hills, New York 11427

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

14th day of April, 1977

Bruce Batchelor

Janet Mack



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

April 14, 1977

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

Ms. Mary Kaplan  
433 Beach 127th Street  
Belle Harbor, New York 11694

Dear Ms. Kaplan:

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

Please take further notice that pursuant to  
Section(s) **690 & 722** 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,

**Paul B. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
MARY KAPLAN	:	
for Redetermination of a Deficiency or	:	DECISION
for Refund of Personal Income and	:	
Unincorporated Business Taxes Under	:	
Articles 22 and 23 of the Tax Law for	:	
the Years 1968 and 1969.	:	

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Petitioner, Mary Kaplan, residing at 433 Beach 127th Street, Belle Harbor, New York 11694, filed a petition for redetermination of a deficiency or for refund of personal income tax and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1968 and 1969. (File No. 00451).

A formal hearing was held before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 13, 1976 at 2:45 p.m. The petitioner appeared by Malcolm Richard, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Solomon Sies, Esq. of counsel).

ISSUE

Whether petitioner, Mary Kaplan, reported the sum of \$19,174.66 twice as income.

FINDINGS OF FACT

1. Petitioner, Mary Kaplan, filed personal income tax returns and unincorporated business tax returns for 1968 and 1969.

2. On May 21, 1973, as the result of an audit, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Mary Kaplan, imposing additional personal income tax for 1968 and 1969 of \$299.00 and \$3,083.76, respectively. It also imposed additional unincorporated business tax for 1968 and 1969 of \$324.01 and \$1,456.27, respectively. This amounted to \$5,163.04, plus interest of \$997.60, for a total due of \$6,160.64. On May 21, 1973, the Income Tax Bureau accordingly issued a Notice of Deficiency against petitioner in said amount.

3. Petitioner, Mary Kaplan, was a wholesale dealer of candy and cigarettes within New York State for the years in issue. She contended that in December 1967, her supplier, J. Rosenberg and Sons, collected \$19,174.66 in candy and cigarette sales on petitioner's behalf which he gave to her in January 1968.

4. Petitioner, Mary Kaplan, submitted a record of deposits made in 1968 to her checking account. There was no deposit made in 1968 by petitioner large enough to absorb the sum in issue.

5. Petitioner, Mary Kaplan, offered no documentary or other substantial evidence to support her position.

CONCLUSIONS OF LAW

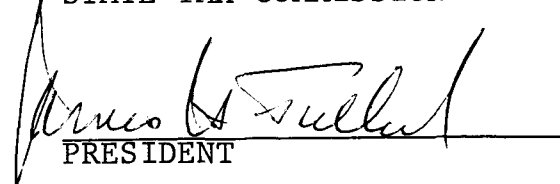
A. That the examination of petitioner, Mary Kaplan's books and records by the Income Tax Bureau was properly conducted, and the resultant findings as to the amount of additional personal income

and unincorporated business tax due for the years in issue were supported by substantial evidence. She failed to submit any documentary or other evidence to support her contention that the sum of \$19,174.66 was reported twice as income.

B. That the petition of Mary Kaplan is denied and the Notice of Deficiency issued May 21, 1973 is sustained.

DATED: Albany, New York  
April 14, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER