

In the Matter of the Petition

of

ROGER & MARY ANN PAGANO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year ~~(s) or Period(s)~~ 1973.

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 12th day of May, 1977, he served the within
Notice of Decision by (certified) mail upon Roger & Mary Ann Pagano

~~(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. Roger Pagano
2024 - 82nd Street
Brooklyn, NY 11214

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

12th day of May, 19 77

Bruce Batchelor

Janet Mack

In the Matter of the Petition

of

ROGER & MARY ANN PAGANO

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 (~~xxxx~~Period(s) 1973.:

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 12th day of May, 1977, he served the within
Notice of Decision by (certified) mail upon B. M. Teevan
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: B. M. Teevan
8826 24th Avenue
Brooklyn, NY 11214
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

12th day of May, 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

May 12, 1977

TELEPHONE: (518) 457-1723

Mr. & Mrs. Roger Pagano
2024 - 82nd Street
Brooklyn, NY 11214

Dear Mr. & Mrs. Pagano:

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

Please take further notice that pursuant to
Section(§) **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
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 :
ROGER & MARY ANN PAGANO :
for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Year 1973. :
: :
DECISION

Petitioners, Roger and Mary Ann Pagano, residing at 2024-82nd Street, Brooklyn, New York 11214, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1973 (File No. 11855).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on July 13, 1976 at 10:45 a.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioners appeared by Bernard M. Teevan. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq. of counsel).

ISSUE

Did petitioners, Roger and Mary Ann Pagano, properly substantiate amounts claimed on their New York State income tax return as "Miscellaneous Deductions?"

FINDINGS OF FACT

1. Petitioners, Roger and Mary Ann Pagano, filed a joint 1973 New York State income tax resident return for the year 1973

on which they claimed miscellaneous deductions in the amount of \$1,374.90.

2. On November 15, 1974, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, wherein \$1,107.50 of the amount claimed for miscellaneous deductions was disallowed. Adjustments to contributions, rental loss and medical and dental expenses were conceded to by the petitioners and are not at issue.

3. The receipts submitted in support of uniform expenses claimed as a miscellaneous deduction had no name or date on them.

4. Meal expense of \$569.00 was claimed as a miscellaneous deduction for meals consumed by petitioner during his night-tour of duty performed as a fireman.

5. Job-related home expense of \$300.00 was claimed as a miscellaneous deduction, for a home office and transportation expenses incurred by petitioner, Mary Ann Pagano, who was vice-president of a small business corporation, known as G & M Products, Inc.

CONCLUSIONS OF LAW

A. That the deduction claimed for uniform expense of \$275.00 was properly disallowed as the petitioners failed to show who incurred such expense and the date upon which such expense was incurred.

B. That the deduction of \$569.00 claimed for the cost of meals consumed during night-tour duty performed by the petitioner, Roger Pagano, was properly disallowed as such amount constituted a non-deductible personal expense.

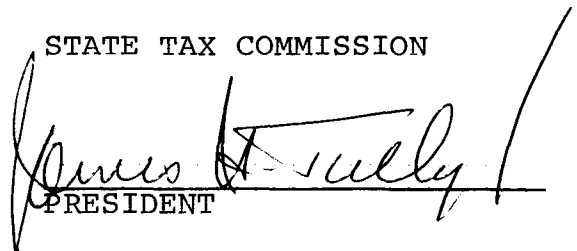
C. That the petitioners, Roger and Mary Ann Pagano, submitted sufficient documentary evidence to sustain the burden of proof for the home office deductions claimed on their New York State personal income return.

D. That the petition of Roger and Mary Ann Pagano is granted to the extent that the miscellaneous deductions allowed are increased from \$267.40 to \$567.40 because of the allowance of the home office expense.

E. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued October 27, 1975; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
May 12, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER