STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANK TENNYCK & ANN TENNYCK

For a Redetermination of a Deficiency or a Revision of a Determination or a Refund of Personal Income & Unincorporated Business Taxes under Article(s) 22 & 23 of the Tax Law for the Year(s) ~~or Period(s)~~ 1970 and 1972

AFFIDAVIT OF MAILING

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 27th day of April, 1977, she served the within Notice of Decision by (certified) mail upon Frank and Ann Tennyck (~~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. Frank Tennyck
1 Ormond Street
Suffern, NY 10901

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
27th day of April, 1977

Bruce Batchelor

Janet Mack

TA-3 (2/76)

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 27, 1977

TELEPHONE: (518) 457-1723

Mr. & Mrs. Frank Tennyck
1 Ormond Street
Suffern, NY 10901

Dear Mr. & Mrs. Tennyck:

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

Please take further notice that pursuant to Section(s) **690 and 722** of the Tax Law, any proceeding in court to review an adverse decision 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:

TA-1.12 (1/76)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of FRANK TENNYCK & ANN TENNYCK for Redetermination of a Deficiency or for Refund of Personal Income Taxes under Article 22 of the Tax Law for the Years 1970 and 1972 and for Redetermination of a Deficiency or for Refund of Unincorporated Business Tax under Article 23 of the Tax Law for the Year 1972.	:	DECISION

Petitioners, Frank Tennyck and Ann Tennyck, residing at 1 Ormond Street, Suffern, New York 10901, have filed a petition for redetermination of a deficiency or for refund of income tax under Article 22 of the Tax Law for the years 1970 and 1972 and for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1972.

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on July 16, 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 pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

ISSUES

I. Was the New York taxable income of petitioners, Frank Tennyck and Ann Tennyck, correctly determined for personal income tax purposes for the taxable years 1970 and 1972?

II. Was the taxable business income of petitioner, Frank Tennyck, correctly determined for unincorporated business tax purposes for the taxable year 1972?

FINDINGS OF FACT

1. Petitioners, Frank Tennyck and Ann Tennyck, timely filed New York State personal income tax returns for the years 1970 and 1972. Petitioner, Frank Tennyck, timely filed New York State unincorporated business tax returns for said years.

2. On March 25, 1974, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Frank Tennyck and Ann Tennyck, for additional personal income tax due for the years 1970 and 1972. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of $496.70.

3. On March 25, 1974, the Income Tax Bureau also issued a Statement of Audit Changes against petitioner, Frank Tennyck, for additional unincorporated business tax due for the year 1972. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of $703.25.

4. The liabilities for personal income tax and unincorporated business tax shown to be due on the Statements of Audit Changes and Notices of Deficiency dated March 25, 1974, were determined by the Income Tax Bureau on the basis of available information, as books and records requested in connection with an audit of petitioners' personal income tax and unincorporated business tax returns were not submitted.

5. Petitioners contended that the failure to submit books and records to the Income Tax Bureau was the fault of the attorney they engaged at the time of the examination.

6. Petitioners did not present books and records at the small claims hearing held on July 16, 1976, and were granted an extension of 30 days in which to do so. Petitioners have not submitted the requested books and records.

CONCLUSIONS OF LAW

A. That although the petitioners were granted 30 days after the date of the small claims hearing to present books and records to show wherein the Notices of Deficiency dated March 25, 1974 were incorrect, they have failed to submit such evidence and they have failed to sustain the burden of proof in accordance with section 689(e) of the Tax Law.

B. That the New York taxable income of petitioners, Frank Tennyck and Ann Tennyck, was correctly determined for personal income tax purposes for the taxable years 1970 and 1972 and that

the taxable business income of petitioner, Frank Tennyck, was correctly determined for unincorporated business tax purposes for the year 1972.

C. That the petition of Frank Tennyck and Ann Tennyck is denied and the Notices of Deficiency are sustained.

DATED: Albany, New York
April 27, 1977

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER