

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SUMMER H. AND MARY L. WATERS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article 22 of the
Tax Law for the Year ~~or Period~~
1970

State of New York
County of Albany

Marsina Donnini, 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 July, 1977, she served the within Notice of Decision by (certified) mail upon Summer H. and Mary L. Waters ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. and Mrs. Summer H. Waters
20 Harbor Road, Harbor Acres
Sands Point, NY 11050 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 July, 1977

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
SUMMER H. AND MARY L. WATERS : 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)~~ :
1970

State of New York
County of Albany

Marsina Donnini, 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 July, 1977, she served the within Notice of Decision by (certified) mail upon Maurice Kipperman (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Maurice Kipperman, CPA
100 Church Street, Room 1608
New York, NY

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.

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Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227
July 27, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. and Mrs. Sumner H. Waters
20 Harbor Road, Harbor Acres
Sands Point, NY 11050

Dear Mr. and Mrs. Waters:

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

You have now exhausted your right of review at the administrative level. Pursuant to section **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


Joseph Chyrywat
Hearing Examiner

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
SUMNER H. and MARY L. WATERS :
for Redetermination of a Deficiency or : DECISION
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Year 1970. :

Petitioners, Sumner H. and Mary L. Waters, residing at 20 Harbor Road, Harbor Acres, Sands Point, New York 11050, 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 1970. (File No. 13684).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on September 22, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. Petitioners appeared by Maurice Kipperman, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq., of counsel).

ISSUE

Whether the travel and business expenses claimed on the petitioners' 1970 New York State income tax return, are deductible and/or fully documented.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioners are not contesting the \$150.00 adjustment of contribution expense and the modification for New York State purposes regarding the maximum capital loss allowable.

2. Petitioner, Sumner H. Waters, was vice-president of Kidder, Peabody & Co., and a registered representative. His principal function was that of a salesman.

3. Petitioners, Sumner H. and Mary L. Waters, did not submit any additional documentary evidence other than what had been previously submitted.

4. Petitioners contended that prior year Internal Revenue Service audits regarding travel or entertainment expenses resulted in approximately a 22% disallowance, while the New York State audit for the year 1970 resulted in a 49% disallowance, which is unfair and unreasonable.

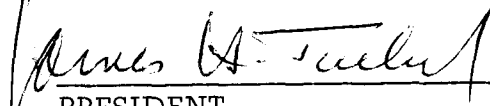
5. That the petitioners failed to submit sufficient documentary and/or any other type of evidence to substantiate any additional allowance for travel or entertainment expense.

6. Petitioners failed to sustain the burden of proof necessary to establish that the amounts claimed as travel and entertainment expenses were proper.

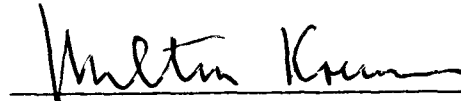
7. The petition of Sumner H. and Mary L. Waters is denied and the Notice of Deficiency issued on December 28, 1973 is sustained.

DATED: Albany, New York
July 27, 1977

STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227
July 27, 1977

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Remailed: 8/2/77

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

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20 Harbor Road, Harbor Acres
Sands Point, NY 11050

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Sincerely,

Joseph Chyzywaty
Hearing Examiner

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

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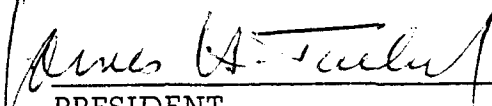
5. That the petitioners failed to submit sufficient documentary and/or any other type of evidence to substantiate any additional allowance for travel or entertainment expense.

6. Petitioners failed to sustain the burden of proof necessary to establish that the amounts claimed as travel and entertainment expenses were proper.

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DATED: Albany, New York
July 27, 1977

STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER

TA-28 (4-76) 25M SMALL CLAIMS

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

Maurice Kipperman, CPA
128 Mant Lane
New York, NY

