

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of

Alvin & Deborah Connor :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income Tax :
under Article 22 of the Tax Law
for the Years 1969, 1970 & 1971. :

State of New York
County of Albany

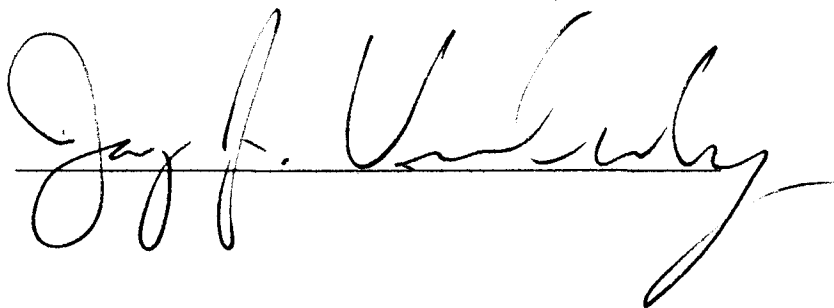
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of September, 1979, he served the within notice of Decision by certified mail upon Alvin & Deborah Connor, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

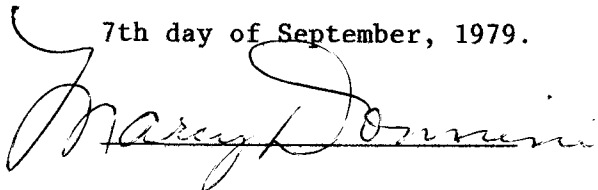
Alvin & Deborah Connor
8 Lake St.
Tupper Lake, NY 12986

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
7th day of September, 1979.





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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 7, 1979

Alvin & Deborah Connor
8 Lake St.
Tupper Lake, NY 12986

Dear Mr. & Mrs. Connor:

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(s) 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,

A handwritten signature in dark ink, appearing to read "John J. Sollecito", written in a cursive style.

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE TAX COMMISSION

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2. In conjunction with an audit of Doc Connor & Son, a partnership of which petitioner Alvin Connor had been a member, the Income Tax Bureau conducted a "cash available - cash disbursed" audit of petitioners, in

which petitioners' income was reconstructed by a comparison of total funds available with total funds disbursed. The Bureau found a discrepancy between reported income and expenditures for each of the years at issue. On April 13, 1973, a Notice of Deficiency was issued against petitioners for 1969, 1970 and 1971 in the amount of \$905.27 in personal income tax, plus \$45.26 in penalty (imposed under section 685(b) of the Tax Law) and \$91.83 in interest, for a sum of \$1,042.36.

3. Petitioners contended that the Income Tax Bureau's estimate for food and clothing expenses was high; however, petitioners did not submit documentary or any satisfactory evidence to support their contentions.

4. Petitioner Alvin Connor contended that the Income Tax Bureau assumed that he was a partner in the firm of Doc Connor & Sons and that he received income therefrom for the years at issue when, in fact, he terminated his interest in said partnership in August of 1970. The Income Tax Bureau determined the amount of income that he received for 1969 and 1970 from the books and records of the partnership. Petitioner contended that no partnership income was credited to him for 1971.

5. Subsequent to the issuance of the Notice of Deficiency, petitioners were offered a reduction in the amount of the deficiency by the Income Tax Bureau. Said offer was, in effect, a settlement offer and was not based on audit findings. Petitioners have requested that said offer, made to them in October of 1974, be taken into account.

6. The Income Tax Bureau did not estimate petitioner's income during its audit; however, it did estimate certain personal expenses such as food and clothing, and said estimates were based on audit guidelines. At all times, the Bureau followed accepted accounting principles in the conduct of its audit.

CONCLUSIONS OF LAW

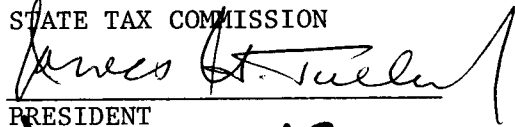
A. That petitioners did not sustain the burden of proof imposed by section 689(e) of the Tax Law, to show that the method of auditing used by the Income Tax Bureau did not properly reflect their tax liability for 1969, 1970 and 1971.

B. That the petition of Alvin Connor and Deborah Connor is denied and the Notice of Deficiency issued April 13, 1973 is sustained, together with such additional interest as may be lawfully owing.

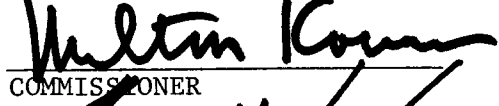
DATED: Albany, New York

SEP 7 1979

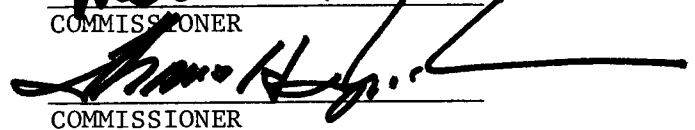
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER