

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of

John K. & Louise M. McQuade :

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 Year 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 26th day of November, 1979, he served the within notice of Decision by certified mail upon John K. & Louise M. McQuade, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

John K. & Louise M. McQuade  
RFD 1, Ridgeway Ave.  
N. Salem, NY 10560

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  
26th day of November, 1979.

Joanne Knapp

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION  
ALBANY, NEW YORK 12227

November 26, 1979

John K. & Louise M. McQuade  
RFD 1, Ridgeway Ave.  
N. Salem, NY 10560

Dear Mr. & Mrs. McQuade:

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:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

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	:	
	:	
JOHN K. and LOUISE M. McQUADE	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1971.	:	

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Petitioners, John K. and Louise M. McQuade, RFD 1 Ridgeway Avenue, North Salem, New York, have filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1971 (File No. 14388).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 5, 1979 at 9:15 A.M. The petitioner appeared pro se and for his wife, petitioner, Louise M. McQuade. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether petitioners properly claimed contributions, miscellaneous deductions and employee business expenses on their 1971 New York State personal income tax return.

FINDINGS OF FACT

1. Petitioners John K. and Louise M. McQuade, filed a joint New York State income tax resident return for the year 1971, on which they deducted \$690.00 in contributions, \$250.00 in miscellaneous deductions and \$1,899.00 in employee business expenses.

2. On October 28, 1974, the Income Tax Bureau issued a Notice of Deficiency, along with an explanatory statement of audit changes, on which contributions were reduced to \$553.00, miscellaneous deductions were reduced to \$100.00 and employee business expenses were reduced to \$311.00. The Notice of Deficiency asserted personal income tax of \$147.56 plus interest of \$22.45.

3. Petitioner John K. McQuade is a certified public accountant employed in the City of New York for S.D. Leidesdorf and Company. His duties were primarily auditing and reviewing the financial operations of its clients.

4. Petitioner, John K. McQuade introduced into evidence a diary which contained a very limited amount of information. He submitted four cancelled checks, however, these checks had no notation as to the nature and/or purpose of the expenditures. He also introduced a variety of schedules showing a breakdown of miscellaneous deductions and employee business expenses claimed. These schedules clearly indicated that many of the individual items were approximations and estimates, in accordance with what petitioner felt was reasonable.

#### CONCLUSIONS OF LAW

A. That petitioners, John K. and Louise M. McQuade have failed to sustain the burden of proof within the meaning and intent of section 689(e) of the Tax Law, in establishing that they were entitled to a greater amount in contributions, miscellaneous deductions and employee business expenses, than allowed by the Income Tax Bureau.

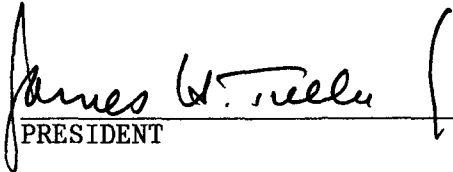
B. That the petition of John K. and Louise M. McQuade is denied and the

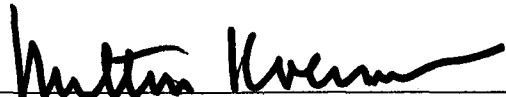
Notice of Deficiency issued October 28, 1974 is sustained, together with such additional interest as may be lawfully owing.


DATED: Albany, New York

NOV 26 1979

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER