

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of

Frank Galati

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 1975. :

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 23rd day of May, 1980, he served the within notice of Decision by certified mail upon Frank Galati, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

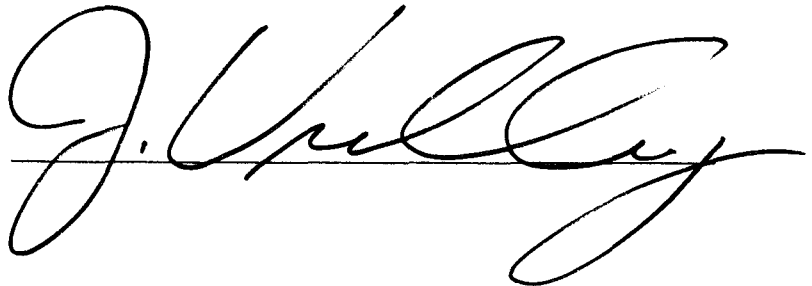
Frank Galati
229 E. 79th St.
New York, NY 10021

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
23rd day of May, 1980.

Joanne Knapp



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

May 23, 1980

Frank Galati
229 E. 79th St.
New York, NY 10021

Dear Mr. Galati:

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

In the Matter of the Petition	:	
of	:	
FRANK GALATI	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1975.	:	

Petitioner, Frank Galati, 229 E. 79th Street, New York, New York 10021, 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 1975 (File No. 19307).

A small claims hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 5, 1979 at 10:45 A.M. Petitioner appeared pro se. The Audit Division appeared by Ralph J. Vecchio, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether petitioner, Frank Galati, properly deducted miscellaneous itemized deductions of \$5,356.00 on his 1975 personal income tax return.

FINDINGS OF FACT

1. Petitioner, Frank Galati, timely filed a New York State Combined Income Tax Return for the year 1975 with his wife.
2. On December 1, 1976, the Audit Division issued a Statement of Audit Changes, wherein it disallowed petitioner's claimed deduction for miscellaneous itemized deductions of \$5,356.00 based on the fact that petitioner failed to

appear for a scheduled audit. Accordingly, a Notice of Deficiency was issued on May 23, 1977 asserting additional personal income tax of \$473.37, plus interest of \$44.43, for a total due of \$517.80.

3. Petitioner's claimed miscellaneous itemized deductions at issue are broken down into the various, categorically separate deductions as follows:

<u>DEDUCTION</u>	<u>AMOUNT CLAIMED</u>
Professional & Union Dues	\$ 250.00
Professional Subscriptions & Library	310.00
Use of Home as an Office	1,086.00
Encyclopedia	200.00
Attendance at Lectures & Seminars	250.00
Accounting Fee	50.00
Drafting Equipment as Architect & Teacher	510.00
Use of Car in Managing Real Estate	2,250.00
Telephone	<u>450.00</u>
 TOTAL MISCELLANEOUS DEDUCTIONS	 <u>\$5,356.00</u>

4. Petitioner contended that the expenses at issue were incurred in connection with the following business activities which he was engaged in during 1975:

- a. Employment as a professor of architecture with the City University in New York.
- b. Operation of an architectural consulting practice on a part-time basis, and
- c. Engagement in the business activity of purchasing real property, performing extensive renovations and remodeling and subsequently selling or renting the properties which were located in Massachusetts and Long Island, New York.

5. During the course of the hearing, petitioner substantiated, by documentary evidence, expenses claimed for "professional subscriptions and library" of \$195.87, and "professional and union dues" of \$25.00. No documentation was submitted for the balance of miscellaneous itemized deductions claimed.

6. Petitioner was given the opportunity to submit additional documentary evidence by mail, subsequent to the hearing, but he failed to do so.

CONCLUSIONS OF LAW

A. That based on substantiation presented, petitioner incurred deductible miscellaneous itemized deductions during the year 1975 of \$220.87 as described in Finding of Fact "5", (supra).

B. That the petition of Frank Galati is granted to the extent provided in Conclusion of Law "A", (supra), and is in all other respects denied.

C. That the Audit Division is hereby directed to modify the Notice of Deficiency dated May 23, 1977 to be consistent with the decision rendered herein.

DATED: Albany, New York

MAY 23 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER