

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Paul G. Poulos :
and Jane Poulos : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Personal Income & UBT :
under Article 22 & 23 of the Tax Law :
for the Years 1967 - 1969. :

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 28th day of November, 1980, he served the within notice of Decision by certified mail upon Paul G. Poulos, and Jane Poulos, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Paul G. Poulos
and Jane Poulos
2507 Parkview Dr.
Niagara Falls, 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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
28th day of November, 1980.

Dorothy A. Bank

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Paul G. Poulos :
and Jane Poulos :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income & UBT :
under Article 22 & 23 of the Tax Law
for the Years 1967 - 1969. :

AFFIDAVIT OF MAILING

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 28th day of November, 1980, he served the within notice of Decision by certified mail upon Thomas G. Poulos the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Thomas G. Poulos
2010 Main St.
Niagara Falls, NY 14305

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
28th day of November, 1980.

Roderick A. Bank

J. Vredenburg

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

November 28, 1980

Paul G. Poulos
and Jane Poulos
2507 Parkview Dr.
Niagara Falls, NY

Dear Mr. & Mrs. Poulos:

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 & 722 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
Thomas G. Poulos
2010 Main St.
Niagara Falls, NY 14305
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
PAUL G. POULOS and JANE POULOS	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income and	:	
Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law for	:	
the Years 1967 through 1969.	:	

Petitioners, Paul G. Poulos and Jane Poulos, 2507 Parkview Drive, Niagara Falls, New York, filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1967 through 1969 (File No. 01560).

A small claims hearing was held before Carl P. Wright, Hearing Officer, at the offices of the State Tax Commission, Genesee Building, One West Genesee Street, Buffalo, New York, on April 24, 1980 at 2:45 P.M. Petitioners appeared by Thomas G. Poulos, Esq. The Audit Division appeared by Ralph J. Vecchio, Esq. (Patricia L. Brumbaugh, Esq., of counsel).

ISSUE

Whether the Income Tax Bureau properly determined petitioners' tax liability as a result of a field audit.

FINDINGS OF FACT

1. Petitioners, Paul G. Poulos and Jane Poulos, filed New York State joint income tax resident returns for 1967 through 1969. Petitioner Paul G. Poulos was self-employed who owned a business under the name and style of "Rainbow Bridge Esso Station", 465 Main Street, Niagara Falls, New York 14303. No unincorporated business tax returns were filed.

2. On December 27, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioners for personal income tax and a Statement of Audit Changes against petitioner Paul G. Poulos for unincorporated business tax for 1967 through 1969, based on a cash analysis and a source and application of funds audit, wherein it was found petitioners had unreported income of \$2,508.08, \$10,020.26 and \$1,507.38 for 1967 through 1969, respectively. Accordingly, on December 27, 1971, the Bureau issued a Notice of Deficiency asserting additional personal income tax of \$557.56, plus penalty pursuant to section 685(b) of the Tax Law of \$27.87 and interest of \$96.23, for a total due of \$681.66 against the petitioners for the years 1967 and 1968. On that same date the Bureau issued another Notice of Deficiency for 1967 through 1969 against petitioner Paul G. Poulos asserting unincorporated business tax of \$947.56, plus penalty pursuant to sections 685(a) and 685(a)(1) and (2) of the Tax Law of \$253.76 and interest of \$153.31, for a total due of \$1,354.63.

3. During the years at issue, petitioner was using a cash basis system of accounting. Petitioner failed to submit books and records of the business to the Income Tax Bureau. In light of this, the Bureau proceeded to reconstruct net income by means of a source and application of funds analysis in accordance with established audit procedures and techniques. The Bureau utilized third party information for the most part (i.e. banks and suppliers), however, petitioners did submit some documentation relative to loans, investments and savings.

4. On May 16, 1973, the petitioners substantiated that they received various disability payments and the Income Tax Bureau recomputed the deficiencies by reducing the taxable income for both personal and unincorporated business by \$1,067.37, \$172.00 and \$1,507.38 for 1967 through 1969 respectively.

5. At the hearing, petitioners, in an attempt to show nontaxable sources of income, submitted the following: Various checks paid out of trust accounts of petitioners' representative to either petitioner Paul G. Poulos or Rainbow Bridge Esso Service Station. Bills for life insurance policies indicating outstanding loan balances. Two demand renewal notes from Manufacturers and Traders Trust Company. A letter dated February 14, 1975 stating payments amounting to \$13,132.76 had been applied to the petitioners' sales tax liability for the period March 1, 1967 through February 25, 1970. However, none of the above items showed conclusively that petitioners received any nontaxable income during the period in issue.

CONCLUSIONS OF LAW

A. That petitioners have not presented adequate or supporting evidence sufficient to establish that the notices of deficiency issued December 27, 1971 and amended by the Audit Division by letter of May 16, 1973 were erroneous, arbitrary or capricious.

B. That the Audit Division is directed to modify the notices of deficiency issued December 27, 1971 in accordance with Finding of Fact "4".

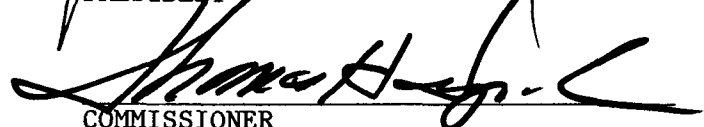
C. That the petition of Paul G. Poulos and Jane Poulos is granted to the extent indicated in Conclusion of Law "B", and that, except as so granted, the petition is in all other respects denied.

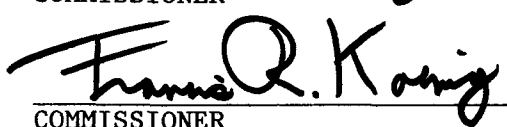
DATED: Albany, New York

NOV 28 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER