

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
Thomas P. Consorti :  
and Josephine Consorti : 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 1970. :

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 20th day of February, 1981, he served the within notice of Decision by certified mail upon Thomas P. Consorti, and Josephine Consorti, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Thomas P. Consorti  
and Josephine Consorti  
306 Spencer Pl.  
Paramus, NJ

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  
20th day of February, 1981.

*Annie P. Hagelund*

*J. Vredenburg*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of  
Thomas P. Consorti :  
and Josephine Consorti : 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 1970. :

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 20th day of February, 1981, he served the within notice of Decision by certified mail upon Angelo A. Janovas 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. Angelo A. Janovas  
31-12 54th St.  
Woodside, NY 11377

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  
20th day of February, 1981.

*Cornie A. Hagelund*

*J. Vredenburg*

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

February 20, 1981

Thomas P. Consorti  
and Josephine Consorti  
306 Spencer Pl.  
Paramus, NJ

Dear Mr. & Mrs. Consorti:

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  
Angelo A. Janovas  
31-12 54th St.  
Woodside, NY 11377  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
THOMAS P. CONSORTI	:	
and	:	DECISION
JOSEPHINE CONSORTI	:	
for Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1970.	:	

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Petitioners, Thomas P. Consorti and Josephine Consorti, 306 Spencer Place, Paramus, New Jersey, 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 1970 (File No. 13128).

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 May 16, 1980 at 2:45 P.M. Petitioner Thomas P. Consorti appeared with Angelo A. Janovas, PA. The Audit Division appeared by Ralph J. Vecchio, Esq. (A. Scopellito, Esq., of counsel).

ISSUE

Whether petitioner has sufficient evidence to establish the amount of a casualty loss incurred during the year 1970.

FINDINGS OF FACT

1. Petitioners Thomas P. Consorti and Josephine Consorti, filed a joint New York State Income Tax Nonresident Return for the year 1970 on October 24, 1972, on which they deducted New York itemized deductions in the net sum of \$28,700.09. This amount included a casualty loss of \$24,900.00.

2. On January 28, 1974, the Audit Division issued a Notice of Deficiency for \$1,237.72, plus interest of \$206.86, along with an explanatory Statement of Audit Changes, on which \$24,900.00 was disallowed due to petitioner's failure to respond to the Income Tax Bureau's letter of February 3, 1973.

3. Petitioner Thomas P. Consorti was an avid collector of stamps, coins, bullion and other items made from precious metals since 1929. On or about October 25, 1970, petitioner's home was burglarized and his entire collection, along with other tangible personal property, was stolen. Petitioners itemized the items stolen and approximated their loss at \$25,000.00.

4. The burglary occurred while petitioners were away on vacation and was reported by their son, who was looking after the house, on October 28, 1970. The burglary was reported to the Police Department in Paramus, New Jersey and to petitioner's insurance company. However, limitations contained in petitioner's insurance policy limited the amount of recovery to \$1,471.00, which was paid subsequent to the year at issue.

5. Petitioner Thomas P. Consorti had sworn testimony submitted by a witness, and in support thereof, submitted a large assortment of bills, receipts, statements and itemized schedules of his large collection. In addition, several large catalogues were offered for examination, which were cross-indexed with the aforementioned itemized schedules submitted. The acceptable documentary evidence submitted indicated a burglary loss in the sum of \$3,389.23.

6. Petitioner Thomas P. Consorti indicated his desire to submit additional documentary evidence. Although a two month period of time was granted in order for him to do so, no additional evidence was submitted.

CONCLUSIONS OF LAW

A. That petitioners, Thomas P. Consorti and Josephine Consorti, incurred a casualty loss during the year 1970 within the meaning and intent of section 165 of the Internal Revenue Code and Article 22 of the Tax Law.

B. That the petition of Thomas P. Consorti and Josephine Consorti is granted to the extent established by a fair preponderance of all the evidence submitted; to wit, a net (after a \$100.00 exclusion) casualty loss of \$3,239.23.

C. That the Audit Division is hereby directed to modify accordingly the Notice of Deficiency issued January 28, 1974; and that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

FEB 20 1981

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER