

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
Abdul S. & Maria L. C. Labi :  
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 :  
1972. :

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AFFIDAVIT OF MAILING

State of New York  
County of Albany

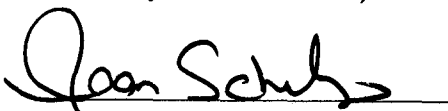
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 30th day of December, 1981, he served the within notice of Decision by certified mail upon Abdul S. & Maria L. C. Labi, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

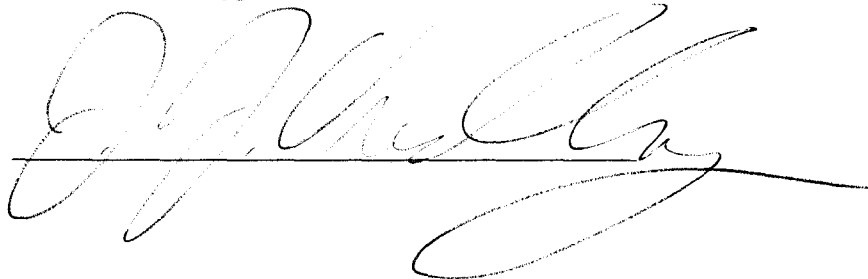
Abdul S. & Maria L. C. Labi  
230 Summit Ave.  
Buffalo, NY 14214

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  
30th day of December, 1981.





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

December 30, 1981

Abdul S. & Maria L. C. Labi  
230 Summit Ave.  
Buffalo, NY 14214

Dear Mr. & Mrs. Labi:

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	:	
ABDUL S. LABI and MARIA L. C. LABI	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1972.	:	

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Petitioners, Abdul S. Labi and Maria L. C. Labi, 230 Summit Avenue, Buffalo, New York 14214, 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 1972 (File No. 15525).

A small claims hearing was held before Carl P. Wright, Hearing Officer, at the offices of the State Tax Commission, Genesee Building, 1 West Genesee Street, Buffalo, New York, on October 3, 1980 at 9:15 A.M. Petitioner Abdul S. Labi appeared pro se. The Audit Division appeared by Ralph J. Vecchio, Esq. (Paul A. Lefebvre, Esq., of counsel).

ISSUE

Whether the petitioners may claim an additional personal exemption.

FINDINGS OF FACT

1. Petitioners, Abdul S. Labi and Maria L. C. Labi, filed a New York State Combined Income Tax Return for the year 1972.
2. The Audit Division conducted an audit of the petitioners' personal income tax return for 1972. During the audit the petitioners requested the right to claim an additional personal exemption for Melinda Pagkalinawan not originally claimed on their 1972 return.
3. On March 29, 1976, the Audit Division issued a Statement of Audit Changes to petitioners wherein it did not accept the additional exemption and made the following adjustment to the petitioners' 1972 income tax return:

	AMOUNT REPORTED ON RETURN	CORRECTED AMOUNT	ADJUSTMENT
Employee business expense	\$1,470.11	\$ 134.40	\$1,335.71
Miscellaneous deductions	65.71	1,260.82	(1,195.11)
Taxes	2,020.54	1,972.29	48.25
Medical and dental expense	2,272.72	78.78	<u>2,193.94</u>
			\$2,382.79

Accordingly, a Notice of Deficiency was issued against the petitioners on March 29, 1976 for 1972, asserting personal income tax of \$92.18, plus interest of \$20.42, for a total due of \$112.60.

4. On June 29, 1976 the petitioners filed a petition on the issue that they should be allowed the additional exemption for 1972.

5. The Audit Division conceded the additional exemption to petitioners for 1972.

CONCLUSIONS OF LAW

A. That the petitioners have sustained the burden of proof required under section 689(e) of the Tax Law to show they were entitled to the additional personal exemption for 1972.

B. That the Audit Division is hereby directed to modify the Notice of Deficiency issued March 29, 1976 to reflect the additional personal exemption for 1972. That the petition of Abdul S. Labi and Maria L. C. Labi is granted to the extent indicated in the above conclusion. That the adjusted tax shall be due together with such additional interest as may be lawfully owing; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

DEC 30 1981

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER