

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition  
of

Sing Lee & Maria Bradley

:

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 1973, 1974. :

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 12th day of October, 1982, he served the within notice of Decision by certified mail upon Sing Lee & Maria Bradley, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Sing Lee & Maria Bradley  
1887 O'Brien Ave.  
Bronx, NY 10473

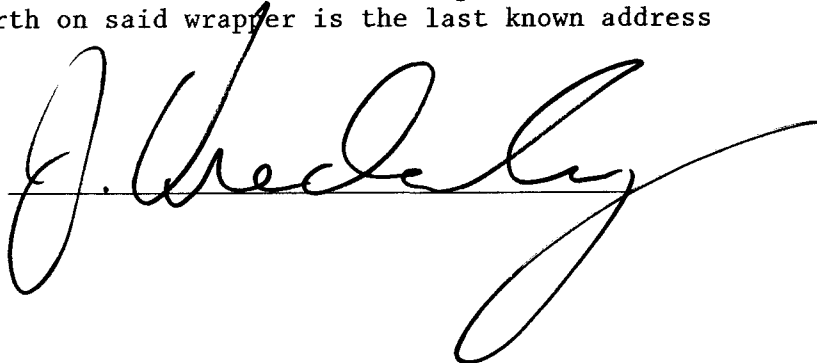
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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  
12th day of October, 1982.



AUTHORIZED TO ADMINISTER  
OATHS PURSUANT TO TAX LAW  
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :  
of  
Sing Lee & Maria Bradley

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :  
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& UBT under Article 22 & 23 of the Tax Law for the:  
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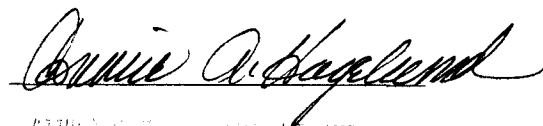
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 12th day of October, 1982, he served the within notice of Decision by certified mail upon Lofton P. Holder the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

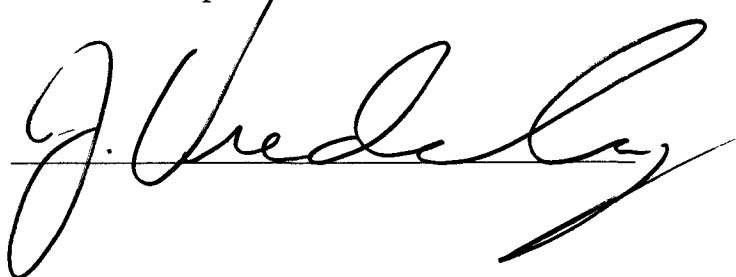
Lofton P. Holder  
377 Broadway, Suite 1107  
New York, NY 10013

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  
12th day of October, 1982.





ANNE A. HAGLUND  
CLERK OF THE STATE TAX COMMISSION  
STATE OF NEW YORK

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

October 12

Sing Lee & Maria Bradley  
1887 O'Brien Ave.  
Bronx, NY 10473

Dear Mr. & Mrs. Bradley:

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  
Law Bureau - Litigation Unit  
Albany, New York 12227  
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Lofton P. Holder  
377 Broadway, Suite 1107  
New York, NY 10013  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
SING LEE BRADLEY and MARIA BRADLEY : 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 1973 and 1974.

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Petitioners, Sing Lee Bradley and Maria Bradley, 1887 O'Brien Avenue, Bronx, New York 10473, 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 1973 and 1974 (File No. 20891).

A small claims hearing was held before Samuel Levy, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 29, 1981 at 1:15 P.M. and on May 4, 1981 at 1:15 P.M. Petitioners Sing Lee Bradley and Maria Bradley appeared by Lofton P. Holder, Esq. The Audit Division appeared by Ralph J. Vecchio, Esq. (Thomas Sacca, Esq., of counsel).

ISSUES

I. Whether petitioner Sing Lee Bradley's taxable income from self-employment was understated for unincorporated business tax and personal income tax purposes.

II. Whether petitioners Sing Lee Bradley and Maria Bradley are liable for penalties for failure to file a personal income tax return and an unincorporated business tax return for 1974.

FINDINGS OF FACT

1. Petitioners, Sing Lee Bradley and Maria Bradley, filed a New York State personal income tax return for 1973. Petitioner Sing Lee Bradley filed an unincorporated business tax return for 1973. Petitioners, Sing Lee Bradley and Maria Bradley, failed to file a New York State personal income tax return for 1974. Petitioner Sing Lee Bradley failed to file an unincorporated business tax return for 1974.

2. On November 26, 1976, petitioners signed a consent fixing the period of limitation upon assessment of personal income and unincorporated business taxes for 1973 until April 15, 1978.

3. On September 26, 1977, the Audit Division issued a Notice of Deficiency against petitioner Sing Lee Bradley asserting unincorporated business tax for the years 1973 and 1974 of \$840.39, penalties, pursuant to section 685 (a)(1), (a)(2) and (b) of the Tax Law, of \$202.73, and interest of \$192.43 for a total of \$1,235.55. The notice was issued on the ground that petitioner understated income from his unincorporated business for 1973 based on a "Schedule of Cash Availability" prepared by the Audit Division and that he failed to file an unincorporated business tax return for 1974. Under same date, the Audit Division issued a separate Notice of Deficiency against petitioners for subject years asserting personal income tax of \$905.68, penalties, pursuant to section 685 (a)(1), (a)(2) and (b) of the Tax Law, of \$238.33, and interest of \$204.29 for a total of \$1,348.30. The Notice of Deficiency was issued on the ground that petitioners understated their taxable income due, in part, to additional income of \$5,592.00 and \$7,376.00 for 1973 and 1974 respectively. Said income was disclosed by use of a "Schedule of Cash Availability" prepared by the Audit Division. Petitioners also overstated a portion of their rental expenses and

understated their itemized deductions. Penalties were asserted for 1974 based on petitioners failure to file a New York State income tax return.

4. At the hearing, petitioners stipulated that the audit adjustments made to rental expenses and itemized deductions were correct.

5. At the hearing, affidavits from third parties were submitted into evidence alleging that for subject years they had loaned monies to petitioner, Sing Lee Bradley, which were to be repaid in installments and without interest. Petitioners did not submit any checks other documentation to support the affidavits. In addition, petitioner submitted into evidence, undated promissory notes from banks which he contends were also a source of funds for the years at issue.

6. Petitioners Sing Lee Bradley and Maria Bradley did not appear and present testimony at the hearing.

#### CONCLUSIONS OF LAW

A. That petitioners Sing Lee Bradley and Maria Bradley have failed to sustain their burden of proof imposed by section 689(e) of the Tax Law in proving that they did not receive additional income in 1973 and 1974.

B. That the penalties asserted for 1973, pursuant to section 685(b) of the Tax Law, are sustained; and that petitioners failure to file a New York State personal income tax return for 1974 was not shown to be due to reasonable cause; therefore penalties asserted, pursuant to section 685(a)(1) and (a)(2) of the Tax Law, are sustained.

C. That the petition of Sing Lee Bradley and Maria Bradley is denied and the Notices of Deficiency issued on September 26, 1977 are sustained together with such additional interest that may be lawfully owing.

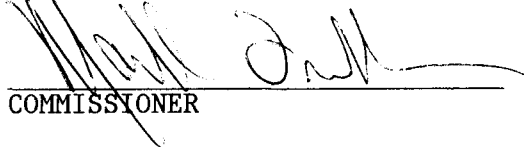
DATED: Albany, New York

OCT 12 1982

STATE TAX COMMISSION

  
ACTING PRESIDENT

  
COMMISSIONER

  
COMMISSIONER