

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
Robert & Marie Buetti :  
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 6th day of October, 1982, he served the within notice of Decision by certified mail upon Robert & Marie Buetti, the petitioners in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Robert & Marie Buetti  
55 Lawrence Lane  
Bayshore, NY 11706

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  
6th day of October, 1982.

*James A. [Signature]*

AUTHORIZED TO ADMINISTER  
OATHS PURSUANT TO TAX LAW  
SECTION 104

*J. Vredenburg*

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of

Robert & Marie Buetti :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :  
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Tax under Article 22 of the Tax Law for the Year :  
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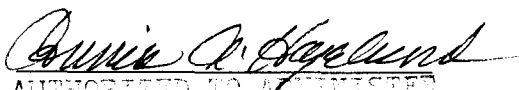
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of October, 1982, he served the within notice of Decision by certified mail upon Robert M. Ernstoff the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Robert M. Ernstoff  
111 East 88th St. (4-A)  
New York, NY 10028

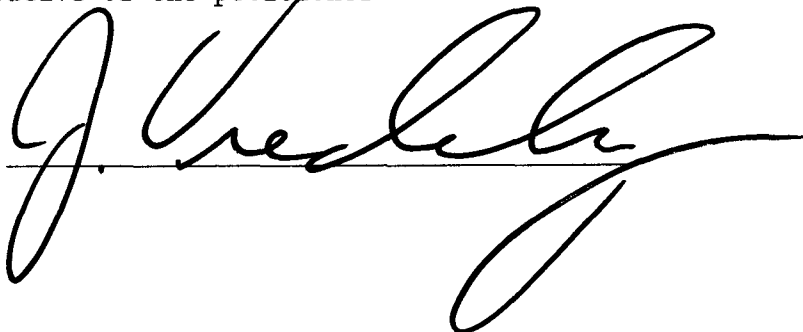
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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  
6th day of October, 1982.



AUTHORIZED TO ADMINISTER  
OATHS PURSUANT TO TAX LAW  
SECTION 174



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

October 6, 1982

Robert & Marie Buetti  
55 Lawrence Lane  
Bayshore, NY 11706

Dear Mr. & Mrs. Buetti:

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

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Robert M. Ernststoff  
111 East 88th St. (4-A)  
New York, NY 10028  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ROBERT BUETTI and MARIE BUETTI	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law for the Year 1975.	:	

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Petitioners, Robert Buetti and Marie Buetti, 55 Lawrence Lane, Bayside, New York 11706, 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. 23640).

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 October 27, 1981 at 10:45 A.M. Petitioners appeared by Robert M. Ernstoff, CPA. The Audit Division appeared by Ralph J. Vecchio, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioners are allowed an investment credit for a master film negative purchased by a partnership in which petitioner Robert Buetti is a member.

FINDINGS OF FACT

1. For 1975, petitioners claimed an investment credit in the amount of \$2,182.00 with respect to a master film negative purchased by Mystic Properties, a partnership, in which petitioner Robert Buetti was a partner.

2. On June 9, 1978, the Audit Division issued a Notice of Deficiency against petitioners asserting personal income tax of \$2,182.00 and interest of

\$398.90, for a total of \$2,580.90. The Notice of Deficiency was based on a Statement of Audit Changes issued against petitioners under date of March 27, 1978, which held that petitioners failed to substantiate that the master film negative is tangible personal property eligible for investment tax credit, and, they failed to submit information requested in correspondence sent them by the Audit Division.

3. In 1975, petitioner Robert Buetti, obtained a four or five percent interest in the partnership known as Mystic Properties (hereinafter "partnership"), a Connecticut limited partnership, with an office at 745 Fifth Avenue, New York, New York.

4. The partnership purchased one full length theatrical motion picture entitled "Venial Sin," also known as "Lovers and Other Relatives".

5. No evidence was introduced to show that the master film negative had a situs in New York State.

#### CONCLUSIONS OF LAW

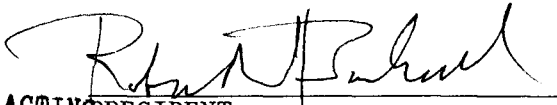
A. That, assuming without deciding that the master film negative purchased by the partnership is depreciable personal property eligible for the investment credit, petitioners have failed to establish that the master film negative owned by the partnership has a situs in New York State pursuant to section 606(a)(2) of the Tax Law.

B. That the petition of Robert Buetti and Marie Buetti is denied and the Notice of Deficiency dated June 9, 1978, is sustained together with such interest as may be legally owing.

DATED: Albany, New York

OCT 06 1982

STATE TAX COMMISSION

  
ACTING PRESIDENT

  
COMMISSIONER

  
COMMISSIONER