

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Eugene Corrao : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or for :
Refund of Personal Income Taxes under Articles :
22 and 30 of the Tax Law and Chapter 46, Title :
T of the Administrative Code of the City of New :
York for the Years 1976 and 1977. :

State of New York
County of Albany

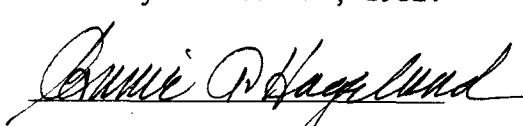
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 12th day of October, 1982, he served the within notice of Decision by certified mail upon Eugene Corrao, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

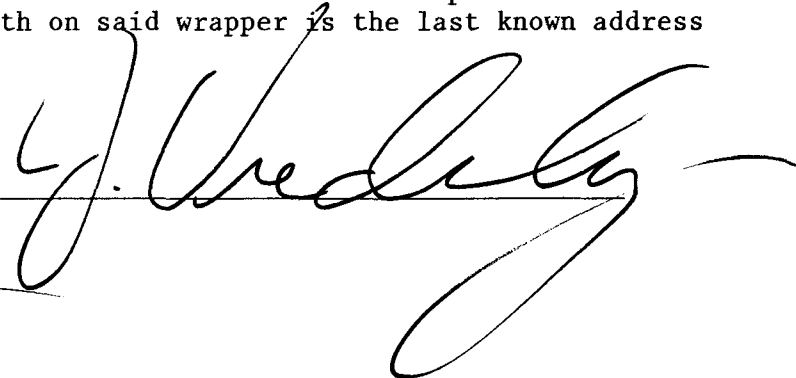
Eugene Corrao
353 Grove St.
Brooklyn, NY 11237

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
ALBANY, NEW YORK 12227

October 12, 1982

Eugene Corrao
353 Grove St.
Brooklyn, NY 11237

Dear Mr. Corrao:

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 & 1312 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

Taxing Bureau's Representative

STATE OF NEW YORK

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of
EUGENE CORRAO
for Redetermination of a Deficiency or for
Refund of Personal Income Taxes under Articles
22 and 30 of the Tax Law and Chapter 46, Title
T of the Administrative Code of the City of New
York for the Years 1976 and 1977.

DECISION

Petitioner, Eugene Corrao, 353 Grove Street, Brooklyn, New York 11237, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Articles 22 and 30 of the Tax Law and Chapter 46, Title T of the Administrative Code of the City of New York for the years 1976 and 1977 (File Nos. 29618 and 29619).

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 28, 1981 at 1:15 P.M. Petitioner appeared pro se. The Audit Division appeared by Ralph J. Vecchio, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioner, Eugene Corrao's, taxable income from self-employment was understated for personal income tax purposes for 1977.

FINDINGS OF FACT

1. Petitioner, Eugene Corrao, and Martha Corrao, his wife, filed New York State income tax resident returns, for 1976 and 1977, on which each reported interest income from a purchase money mortgage. For 1977, petitioner, Eugene Corrao, deducted expenses incurred in his business, and, also claimed itemized deductions.

2. On December 31, 1979 the Audit Division issued a Notice of Deficiency against petitioner, asserting personal income tax of \$359.21 and interest of \$80.57, for a total of \$439.78 for 1976. The Notice of Deficiency was issued on the basis that interest income earned on a purchase money mortgage was attributable solely to petitioner as the owner of said instrument and not allocable between petitioner and his wife. Under the same date, the Audit Division issued a separate Notice of Deficiency against petitioner, Eugene Corrao, for 1977, asserting personal income tax of \$2,203.71, plus penalty pursuant to section 685(b) of the Tax Law and interest of \$417.00, for a total of \$2,620.76. The Notice of Deficiency for 1977 was issued on the grounds that petitioner understated his self-employment income, overstated both his business expenses and itemized deductions and additionally, an adjustment was made to interest income as noted above.

3. At the hearing, petitioner, Eugene Corrao, agreed to the audit adjustment made for 1976.

4. The Audit Division and the petitioner stipulated that the unreported income for 1977 was \$5,000.00 in lieu of the \$6,430.00 originally determined by the Audit Division.

5. Petitioner did not raise any objections to the Audit Division adjustments made to interest income, business expenses, itemized deductions and penalty for 1977.

CONCLUSIONS OF LAW

A. That petitioner, Eugene Corrao, understated his taxable income from self-employment in the amount of \$5,000.00 for 1977 pursuant to Finding of Fact "4".

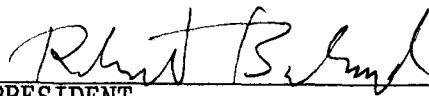
B. That the petition of Eugene Corrao is granted to the extent provided for in Conclusion of Law "A", supra and the Audit Division is hereby directed to accordingly modify the Notice of Deficiency for said year. The petition is denied in all other respects and the Notice of Deficiency as modified is sustained.

C. That based on Finding of Fact "3", supra, the Notice of Deficiency for 1976 issued on December 31, 1979 is sustained.

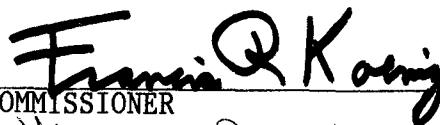
DATED: Albany, New York

STATE TAX COMMISSION

ACTING PRESIDENT



COMMISSIONER



COMMISSIONER

