

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
James & Joanne Nollas :
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 :
1973. :
_____ :

State of New York
County of Albany

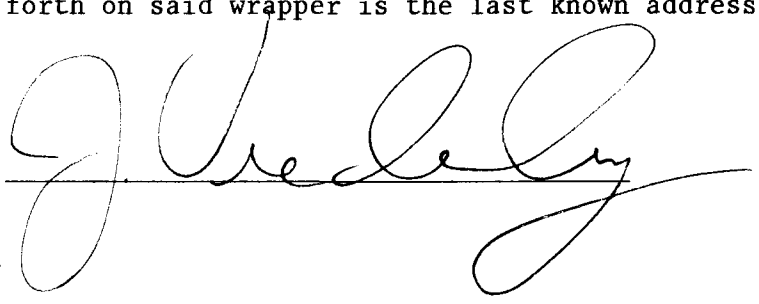
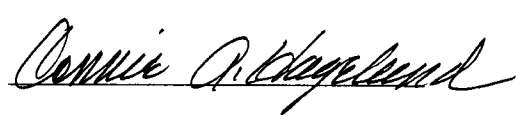
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 11th day of June, 1982, he served the within notice of Decision by certified mail upon James & Joanne Nollas, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

James & Joanne Nollas
50 Princeton Ave.
Closter, NJ 07624

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
11th day of June, 1982.

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

June 11, 1982

James & Joanne Nollas
50 Princeton Ave.
Closter, NJ 07624

Dear Mr. & Mrs. Nollas:

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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
JAMES NOLLAS and JOANNE NOLLAS	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law for the Year 1973.	:	

Petitioners, James Nollas and Joanne Nollas, 50 Princeton Avenue, Closter, New Jersey 07624, 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 1973 (File No. 24545).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 7, 1981 at 10:45 A.M. Petitioner James Nollas appeared pro se and for his wife. The Audit Division appeared by Ralph J. Vecchio, Esq. (Samuel Freund, Esq., of counsel).

ISSUES

I. Whether petitioners have substantiated a deduction of \$1,000.00 for office-in-home expenses.

II. Whether petitioners have substantiated itemized deductions totaling \$9,356.00.

FINDINGS OF FACT

1. Petitioners, James Nollas and Joanne Nollas, filed a New York State Income Tax Nonresident Return for the year 1973 on December 26, 1975. On said return petitioners claimed a \$1,000.00 adjustment to income for office-in-home expenses and itemized deductions of \$9,356.00.

2. On December 7, 1978, the Audit Division issued a Notice of Deficiency to petitioners assessing additional personal income tax of \$818.52 plus interest. Said notice was based on a Statement of Audit Changes, also dated December 7, 1978, where the following explanation was given:

"As you failed to furnish the information requested in our letters of December 14, 1977, March 9, 1978, July 14, 1978 and September 25, 1978, and as you failed to appear at the informal conference scheduled at your request on November 24, 1978, the line 15 adjustment to income of \$1,000.00 and itemized deductions of \$9,356.00 are disallowed. Maximum standard deduction of \$2,000.00 is allowed."

3. At the hearing held herein petitioners submitted acceptable documentary evidence to support interest expenses of \$1,161.28, property taxes of \$1,673.00 and contributions of \$110.00. No credible documentary or other evidence was submitted to substantiate the balance of the claimed deductions for interest, taxes or contributions.

4. No documentary or other evidence was offered in connection with the deductions claimed for medical expenses, miscellaneous expenses and office-in-home expenses. Petitioners were allowed a 45-day period from the close of the hearing held herein within which to submit additional documentation. The additional evidence offered by petitioners consisted solely of a letter from Reverend S. Tsamutalis concerning charitable contributions.

CONCLUSIONS OF LAW

A. That petitioners have substantiated and are entitled to deduct interest expense of \$1,161.28, property taxes of \$1,673.00 and contributions of \$110.00. Additionally, petitioners are also entitled to a deduction for State sales tax of \$193.60 pursuant to section 164(b)(2) of the Internal Revenue Code of 1954 and computed from the 1973 Optional State Sales Tax Tables. That

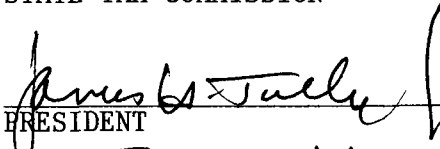
petitioners have failed to substantiate the existence or payment of the balance of claimed itemized deductions and have not substantiated the existence or payment of office-in-home expenses of \$1,000.00. Accordingly, petitioners have failed to sustain the burden of proof imposed pursuant to section 689(e) of the Tax Law.

B. That the petition of James Nollas and Joanne Nollas is granted to the extent indicated in Conclusion of Law "A", supra and that, except as so granted, the petition is in all other respects denied.

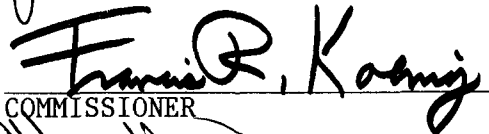
DATED: Albany, New York

STATE TAX COMMISSION

JUN 11 1982



PRESIDENT



COMMISSIONER



COMMISSIONER