

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
Lawrence D. Stowell	:	
for Redetermination of a Deficiency or a Revision	:	AFFIDAVIT OF MAILING
of a Determination or a Refund of Personal Income	:	
& UBT under Article 22 & 23 of the Tax Law for	:	
the Years 1974, 1975, 1976.	:	

State of New York
County of Albany

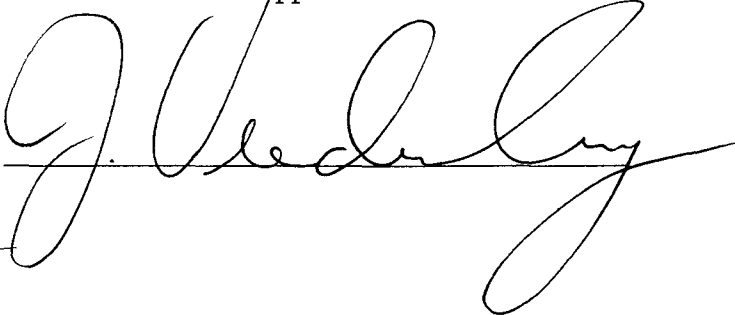
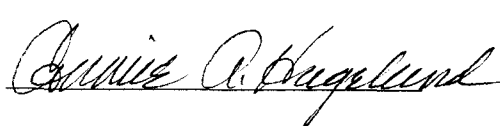
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 16th day of July, 1982, he served the within notice of Decision by certified mail upon Lawrence D. Stowell, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Lawrence D. Stowell
6 Mendon Ionia Rd.
Mendon, NY 14506

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
16th day of July, 1982.

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Lawrence D. Stowell :

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 1974, 1975, 1976. :

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 16th day of July, 1982, he served the within notice of Decision by certified mail upon Robert E. Brown 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 E. Brown
Middleton, Wilson, Boylan & Gianniny
900 Midtown Tower
Rochester, NY 14604

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
16th day of July, 1982.

Daniel A. Hagelund

J. Vredenburg

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

July 16, 1982

Lawrence D. Stowell
6 Mendon Ionia Rd.
Mendon, NY 14506

Dear Mr. Stowell:

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
Robert E. Brown
Middleton, Wilson, Boylan & Gianniny
900 Midtown Tower
Rochester, NY 14604
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LAWRENCE D. STOWELL	:	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 1974, 1975 and 1976.	:	

Petitioner, Lawrence D. Stowell, 6 Hendon-Ionia Road, Mendon, New York 14506, 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 1974, 1975 and 1976 (File No. 25166).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, One Marine Midland Plaza, Rochester, New York, on July 23, 1981 at 9:15 a.m. Petitioner appeared by Robert E. Brown, Esq. The Audit Division appeared by Ralph Vecchio, Esq., (Thomas Sacca, Esq., of counsel).

ISSUE

Whether the findings of the audit of petitioner's books and records were correct.

FINDINGS OF FACT

1. On January 31, 1977, petitioner signed a consent, for tax year 1974, extending the period of limitation upon assessment of personal income and unincorporated business taxes to any time on or before April 15, 1979.

2. On November 13, 1978, the Audit Division pursuant to audit, issued a Statement of Audit Changes finding additional personal income taxes and unincorporated business taxes due for the years 1974 , 1975 and 1976. Penalties

pursuant to Section 685(e) were imposed. Accordingly a Notice of Deficiency was issued on said date in the amount of \$10,952.21 plus penalty and interest of \$7,694.29 for a total of \$18,646.70.

3. The Audit Division after receiving additional information and evidence from the petitioner stipulated with petitioner that petitioner's income be increased in 1974 by \$8,316.32, in 1975 by \$2,833.12 and in 1976 by \$2,650.50 and that tax be "computed in accordance with normal rules plus interest". No mention was made regarding the penalty previously asserted under section 685(e) of the Tax Law.

CONCLUSIONS OF LAW

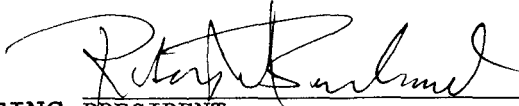
A. That the penalty asserted under section 685(e) of the Tax Law is cancelled by virtue of it not being part of the stipulation and the Audit Division is hereby directed to modify the Notice of Deficiency issued November 13, 1978 in accordance with Finding of Fact "3".

B. That the petition of Lawrence D. Stowell is granted to the extent indicated in the above conclusion. That the adjusted tax shall be due together with interest lawfully due.

DATED: Albany, New York

JUL 16 1982

STATE TAX COMMISSION


ACTING PRESIDENT


COMMISSIONER


COMMISSIONER