

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Aaron Okun : 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 :
Year 1975.

State of New York
County of Albany

Connie Hagelund, being duly sworn, deposes and says that she is an employee of the State Tax Commission, over 18 years of age, and that on the 28th day of September, 1983, she served the within notice of Decision by certified mail upon Aaron Okun, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

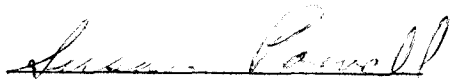
Aaron Okun
537 W. 121st St.
New York, NY 10027

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
28th day of September, 1983.





AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Aaron Okun : 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 Year 1975.

State of New York
County of Albany

Connie Hagelund, being duly sworn, deposes and says that she is an employee of the State Tax Commission, over 18 years of age, and that on the 28th day of September, 1983, she served the within notice of Decision by certified mail upon Irving Hiller the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Irving Hiller
2260 81st St.
Brooklyn, NY 11214

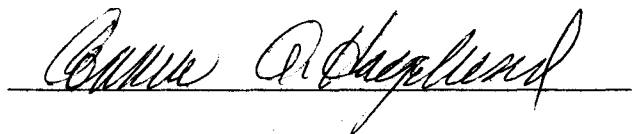
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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
28th day of September, 1983.



AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



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

September 28, 1983

Aaron Okun
537 W. 121st St.
New York, NY 10027

Dear Mr. Okun:

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 Law 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
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Irving Hiller
2260 81st St.
Brooklyn, NY 11214
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
AARON OKUN	:	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 Year 1975.	:	

Petitioner, Aaron Okun, 537 West 121st Street, New York, New York 10027, 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 year 1975 (File No. 27460).

A small claims hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 18, 1982 at 10:45 A.M., with all briefs to be submitted by December 18, 1982. Petitioner appeared by Irving Hiller, CPA. The Audit Division appeared by Paul B. Coburn, Esq. (Alfred Rubenstein, Esq., of counsel).

ISSUE

Whether a field audit adjustment attributing additional business income to petitioner during taxable year 1975 was proper.

FINDINGS OF FACT

1. Aaron Okun (hereinafter petitioner) timely filed a New York State Income Tax Resident Return for the year 1975 whereon he reported business income of \$9,040.00 derived from "Poinciana Market", a New York City retail food market owned and operated by him. Petitioner also filed a New York State unincorporated business tax return for said year.

2. On February 23, 1979 the Audit Division issued a Statement of Audit Changes to petitioner wherein, as the result of a field audit, an adjustment of \$7,081.00 for "Additional Income From Business" was made for both personal income tax and unincorporated business tax purposes. Accordingly, a Notice of Deficiency was issued against petitioner on April 5, 1979 asserting additional personal income tax of \$556.45, additional unincorporated business tax of \$389.45, plus interest of \$240.32, for a total of \$1,186.22.

3. The adjustment of \$7,081.00 was computed through use of the source and application of funds method of income reconstruction. Total sources of funds were determined to be \$11,047.00, while total applications were \$18,128.00, yielding "unexplained income" of \$7,081.00.

4. Petitioner submitted documentation from the Social Security Administration evidencing his receipt of social security benefits totaling \$4,809.70 during 1975. Credit was not previously given for social security benefits as a source of funds in the computation of the deficiency herein.

CONCLUSIONS OF LAW

A. That total sources of funds is hereby increased by \$4,809.70, such amount representing petitioner's social security benefits received during 1975. Accordingly, the adjustment for "Additional Income From Business" is reduced by the same amount to \$2,271.30.

B. That the petition of Aaron Okun is granted to the extent provided in Conclusion of Law "A", supra, and except as so granted, said petition is, in all other respects denied.

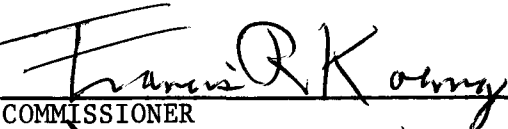
C. That the Audit Division is hereby directed to modify the Notice of Deficiency dated April 5, 1979 to be consistent with the decision rendered herein.

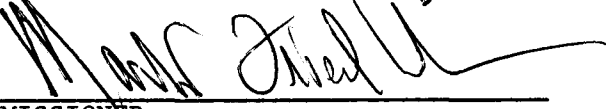
DATED: Albany, New York

STATE TAX COMMISSION

SEP 28 1983


PRESIDENT


COMMISSIONER


COMMISSIONER