

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Michael Karacsony : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or Revision :
of a Determination or Refund of Personal Income :
& Unincorporated Business Tax under Article(s) :
22 & 23 of the Tax Law for the Years 1980 & 1981. :
:

State of New York :

ss.:

County of Albany :


David Parchuck/Janet M. Snay, being duly sworn, deposes and says that he/she is an employee of the State Tax Commission, that he/she is over 18 years of age, and that on the 15th day of September, 1986, he/she served the within notice of Decision by certified mail upon Michael Karacsony the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

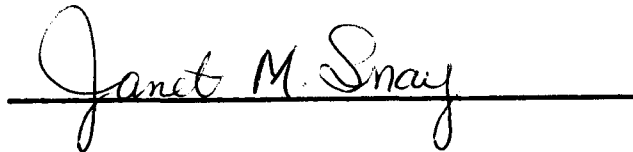
Michael Karacsony
c/o Schneider & Schneider
P.O. Box 7563
Greenwich, CT 06836

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
15th day of September, 1986.


Authorized to administer oaths
pursuant to Tax Law section 174



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

September 15, 1986

Michael Karacsony
c/o Schneider & Schneider
P.O. Box 7563
Greenwich, CT 06836

Dear Mr. Karacsony:

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, a proceeding in court to review an adverse decision by the State Tax Commission may be instituted only 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
Audit Evaluation Bureau
Assessment Review Unit
Building #9, State Campus
Albany, New York 12227
Phone # (518) 457-2086

Very truly yours,

STATE TAX COMMISSION

cc: Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
MICHAEL KARACSONY	:	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 1980 and 1981.	:	

Petitioner, Michael Karacsony, c/o Schneider & Schneider, P.O. Box 7563, Greenwich, Connecticut 06836, 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 1980 and 1981 (File No. 57904).

A 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 March 20, 1986 at 1:15 P.M. Petitioner appeared pro se. The Audit Division appeared by John P. Dugan, Esq. (Gary Palmer, Esq., of counsel).

ISSUE

Whether, as the result of a field audit, adjustments attributing additional income to petitioner for each of the years 1980 and 1981 were proper.

FINDINGS OF FACT

1. Michael Karacsony (hereinafter "petitioner") with his wife, Lillian Karacsony, filed a New York State Income Tax Resident Return for each of the years 1980 and 1981 under filing status "Married filing separately on one return." On said returns, he reported business income of \$22,281.00 (1980) and \$22,663.00 (1981) derived from his activities as a house painter and decorator. For taxable year 1980, petitioner filed a New York State Unincorporated Business Tax Return.

2. On August 17, 1984, the Audit Division issued a Statement of Personal Income Tax Audit Changes to petitioner wherein the following adjustments were made:

	<u>1980</u>	<u>1981</u>
"Additional Income as a result of field audit		
Source and application of funds analysis	\$68,716.00	\$28,172.00
Statutory Medical Adjustment due to a change in gross income	539.00	-0-
Interest Expense on business loans	248.00	527.00
Sales Tax omitted from business expenses	-0-	(3,077.00)
Unincorporated Business Tax Modification	--	504.00
Net Adjustment	<u>\$69,503.00</u>	<u>\$26,126.00"</u>

3. On August 17, 1984, the Audit Division also issued a Statement of Unincorporated Business Tax Audit Changes to petitioner wherein the following adjustments were made:

	<u>1980</u>
Source and application of funds analysis	\$68,716.00
Interest Expense on business loans	248.00
Allowance for Taxpayer Services	(544.00)
Net Adjustment per Audit	<u>\$68,420.00"</u>

4. Petitioner executed a consent form which extended the period for assessment of 1980 taxes to any time on or before April 15, 1985.

5. On November 5, 1984, the Audit Division issued a Notice of Deficiency against petitioner asserting personal income taxes for 1980 and 1981 of \$13,156.32, unincorporated business tax for 1980 of \$2,746.05, penalties of \$2,143.77, and interest of \$6,500.31, for a total due of \$24,546.45. Said penalties were asserted pursuant to sections 685(a)(1), 685(a)(2) and 685(b) of the Tax Law for late filing of petitioner's 1980 personal income tax and unincorporated

business tax returns,¹ late payment of the taxes due with such returns, and negligence for 1980 and 1981, respectively.

6. The aforesaid adjustments of \$68,716.00 (1980) and \$28,172.00 (1981) were computed by the Source and Application of Funds Analysis method of income reconstruction as follows:

	<u>1980</u>	<u>1981</u>
<u>Sources of Funds</u>		
Interest Income	\$ 5,508.00	\$ 8,535.00
Business Income	22,281.00	22,663.00
Business Depreciation	288.00	288.00
Rental Income	6,000.00	6,000.00
<u>Decrease in account balances</u>		
Greenwich Savings #8501287-8	277.00	
4th Federal Savings #1099	481.00	5,033.00
Greenwich Savings #8501799-2	10,545.00	
United Mutual #7-153783		98.00
Greenwich Savings #9027317-6		14,261.00
Scarsdale National #0153457		5,507.00
Chemical Bank checking - Business		8,960.00
Scarsdale National #3024709468		20,000.00
Total Sources	<u>\$ 45,380.00</u>	<u>\$ 91,345.00</u>
<u>Application of Funds</u>		
Rental Expenses (net of depreciation)	\$ 5,257.00	\$ 5,674.00
Auto Purchase	1,200.00	
Stock Purchases (E.F. Hutton, Merrill Lynch)		37,381.00
<u>Increase in account balances</u>		
Greenwich Savings #9027317-6	14,261.00	
Scarsdale National #01534517	204.00	
Chemical Bank checking (business)	5,354.00	
Scarsdale National checking (personal)	682.00	2,520.00
Scarsdale National #302470968	20,000.00 ²	
Scarsdale National #3024702609	6,603.00 ²	
Greenwich Savings #9017588-4	5,282.00 ²	
Greenwich Savings #9019032-1	6,500.00 ²	
Emigrant Savings #5000013006	10,651.00 ²	2,868.00 ²

1 Section 722(a) of Article 23 incorporates sections 685(a)(1), 685(a)(2) and 685(b) of Article 22 for unincorporated business tax purposes.

2 Since petitioner has continuously failed to provide documentation of these accounts, the balances have been estimated by the Audit Division based on interest income reported.

Greenwich Savings #9034381-3		10,305.00
Scarsdale National #302471459-5		14,100.00
Scarsdale National #3024712825		16,000.00
Payments on Business Loans	1,560.00	
Cost of Living Analysis	36,542.00	30,669.00
Total Applications	<u>\$114,096.00</u>	<u>\$119,517.00</u>
Understatement of Income	<u>\$ 68,716.00</u>	<u>\$ 28,172.00</u>

7. Although petitioner vehemently disagreed with the audit findings, he failed to submit any documentation which would warrant a decrease in the aforestated adjustments.

CONCLUSIONS OF LAW

A. That petitioner has failed to sustain his burden of proof, imposed pursuant to sections 689(e) and 722(a) of the Tax Law, to show that the adjustments made by the Audit Division were erroneous or improper. Accordingly, such adjustments are sustained in their entirety.

B. That the petition of Michael Karacsony is denied and the Notice of Deficiency issued November 5, 1984 is sustained, together with such additional penalties and interest as may be lawfully owing.

DATED: Albany, New York

STATE TAX COMMISSION

SEP 15 1986

Rodnick Aron
PRESIDENT

Francis R. Koehn
COMMISSIONER

Mark J. [Signature]
COMMISSIONER

TA-26 (7/85)
STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
W. A. Harriman Campus
ALBANY, N.Y. 12227

Fold at line over top of envelope to the right
of the return address

CERTIFIED

P 319 117 279

MAIL

Michael Karacsony
c/o Schneider & Schneidef
P.O. Box 7563
Greenwich, CT 06836

Check
No.

☐ Hold

Date

1ST Notice

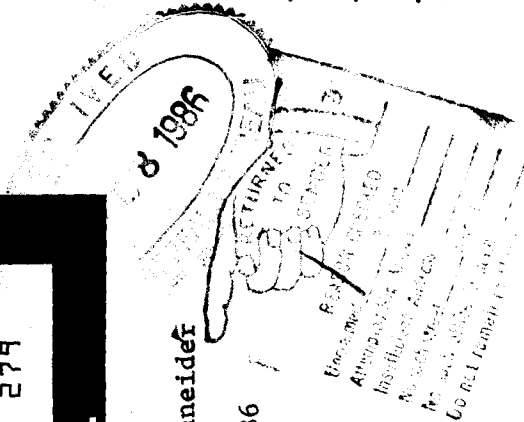
9-22

2ND Notice

10-22

Return

Detached from
PS Form 3849-A,
Oct. 1985



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

September 15, 1986

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c/o Schneider & Schneider
P.O. Box 7563
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DATED: Albany, New York

STATE TAX COMMISSION

SEP 15 1986

Rodriguez-Cruz
PRESIDENT

Francis R. Koenig
COMMISSIONER

[Signature]
COMMISSIONER