

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Karl A. & Barbara E. Elling :
: AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Sales & Use Tax :
under Article 28 & 29 of the Tax Law :
for the Period 3/1/74-2/28/77 :

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 1st day of May, 1981, he served the within notice of Decision by certified mail upon Karl A. & Barbara E. Elling, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

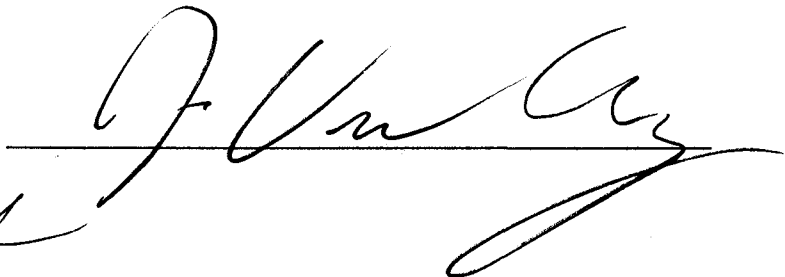
Karl A. & Barbara E. Elling
c/o Robert Aldrich, President
56 Hamilton Avenue
Huntington Station, NY 11746

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
1st day of May, 1981.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Karl A. & Barbara E. Elling :
: AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Sales & Use Tax :
under Article 28 & 29 of the Tax Law :
for the Period 3/1/74-2/28/77 :

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 1st day of May, 1981, he served the within notice of Decision by certified mail upon Karl A. Elling the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Karl A. Elling
15 Sunnywoods Drive
Huntington, NY 11746

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
1st day of May, 1981.




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

May 1, 1981

Karl A. & Barbara E. Elling
c/o Robert Aldrich, President
56 Hamilton Avenue
Huntington Station, NY 11746

Dear Mr. & Mrs. Elling:

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
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Karl A. Elling
15 Sunnywoods Drive
Huntington, NY 11746
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
KARL A. ELLING and BARBARA E. ELLING	:	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, Karl A. Elling and Barbara E. Elling, 15 Sunnywoods Drive, Huntington Station, New York 11746, 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. 17932).

Petitioners waived their right to a small claims hearing and have requested that a decision be rendered based on the record as presently contained in their file. Upon review of the file, the State Tax Commission hereby finds:

ISSUES

I. Whether petitioner Karl A. Elling properly deducted expenses relative to the maintenance of an office in his home, expenses incurred in a research and educational trip to Germany and charitable contributions.

II. Whether petitioner Barbara E. Elling properly deducted expenses incurred in a research and educational trip to Germany.

FINDINGS OF FACT

1. Petitioners, Karl A. Elling and Barbara E. Elling, timely filed a New York State Combined Income Tax Return for the year 1973 (Form IT-208). On said combined return, petitioners claimed a deduction for charitable contributions of \$360.00 and miscellaneous itemized deductions of \$6,250.17.

2. On December 20, 1976, petitioner Karl A. Elling was issued a Notice of Deficiency asserting that additional personal income tax of \$126.04 was due together with interest for the year 1973. A second Notice of Deficiency was issued on December 20, 1976 to Karl A. and Barbara E. Elling asserting that additional personal income tax of \$118.83 was due together with interest, also for the year 1973.

3. The aforementioned notices of deficiency were based on a substantiation audit conducted by the Audit Division. Contributions claimed by petitioner Karl A. Elling totalled \$360.00, with \$260.00 being allowed on audit and \$100.00 being disallowed. Additional adjustments made to petitioner Karl A. Elling's return include the disallowance of miscellaneous expenses of \$804.00 for a research and educational trip to Germany and the disallowance of home office expenses of \$896.60, out of a total claimed home office expense of \$1,407.01. These three adjustments total \$1,800.60 and comprise the basis of the deficiency issued solely against Karl A. Elling. The Notice of Deficiency issued to Karl A. and Barbara E. Elling is based solely on the disallowance of a deduction of \$1,526.50 claimed on petitioner Barbara E. Elling's return for expenses incurred on a research and educational trip to Germany.

4. During 1973, petitioners undertook three separate projects involving travel, allegedly for the maintenance and improvement of their professional skills. Petitioner Barbara E. Elling was an Associate Professor of German and had incurred expenses of \$1,526.50 while on a trip to Germany during July and August of 1973. Petitioner Karl A. Elling was an Associate Professor of Business Administration and incurred expenses of \$1,668.38 and \$804.00 while on trips to South America in June and Germany in December. The expenses incurred in South America were allowed by the Audit Division, while the expenses relating to the two trips to Germany were disallowed. Petitioners' file

contains insufficient documentary evidence to support that the expenses incurred on the two trips to Germany were for the maintenance or improvement of skills required in performing the duties of their present employment.

5. Petitioners have also failed to submit nor does their file contain documentary or other evidence which would support the disallowed portion of home office expenses and contributions.

CONCLUSIONS OF LAW

A. That petitioners have failed to meet the burden of proof imposed by section 689(e) of the Tax Law to show that they are entitled to deductions for educational expenses, home office expenses and contributions in amounts greater than those allowed by the Audit Division.

B. That the Notice of Deficiency issued to Karl A. and Barbara E. Elling in the amount of \$118.83 incorrectly includes Karl A. Elling's name since the adjustment upon which this deficiency is based pertains only to a deduction claimed on the separate return of petitioner Barbara E. Elling.

C. That the petition of Karl A. Elling and Barbara E. Elling is granted to the extent indicated in Conclusion of Law "B" and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

MAY 01 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Karl A. & Barbara E. Elling : 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 6th day of January 1982, he served the within notice of by certified mail upon Karl A. & Barbara E. Elling, the petitioners in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Karl A. & Barbara E. Elling
15 Sunnywoods Drive
Huntington, NY 11746

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
6th day of January 1982.

Kathy Pfaffenbach

J. Vredenburg



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

JAMES H. TULLY JR., PRESIDENT

THOMAS H. LYNCH

FRANCIS R. KOENIG

TELEPHONE: (518) 457-1723

January 6, 1982

Karl A. Elling
15 Sunnywoods Drive
Huntington Station, NY 11746

Re: Karl A. & Barbara E. Elling

Dear Mr. Elling:

Mr. Paul Greenberg asked me to reply to your letter to him dated December 23, 1981.

A review of our mailing records discloses that we did make an error in mailing the Decision on both May 1, 1981 and May 29, 1981. Rather than sending them Certified Mail as the Tax Law requires, the Decision was sent regular mail.

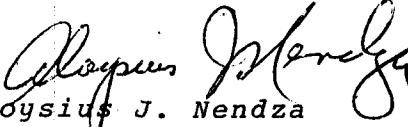
Therefore, enclosed is the Decision of the State Tax Commission. The date of the Decision has been changed to coincide with this mailing and also allow you the full time to file your appeal.

Pursuant to section 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
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,


Aloysius J. Nendza
Assistant Director

Enclosure

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
KARL A. ELLING and BARBARA E. ELLING	:	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, Karl A. Elling and Barbara E. Elling, 15 Sunnywoods Drive, Huntington Station, New York 11746, 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. 17932).

Petitioners waived their right to a small claims hearing and have requested that a decision be rendered based on the record as presently contained in their file. Upon review of the file, the State Tax Commission hereby finds:

ISSUES

I. Whether petitioner Karl A. Elling properly deducted expenses relative to the maintenance of an office in his home, expenses incurred in a research and educational trip to Germany and charitable contributions.

II. Whether petitioner Barbara E. Elling properly deducted expenses incurred in a research and educational trip to Germany.

FINDINGS OF FACT

1. Petitioners, Karl A. Elling and Barbara E. Elling, timely filed a New York State Combined Income Tax Return for the year 1973 (Form IT-208). On said combined return, petitioners claimed a deduction for charitable contributions of \$360.00 and miscellaneous itemized deductions of \$6,250.17.

2. On December 20, 1976, petitioner Karl A. Elling was issued a Notice of Deficiency asserting that additional personal income tax of \$126.04 was due together with interest for the year 1973. A second Notice of Deficiency was issued on December 20, 1976 to Karl A. and Barbara E. Elling asserting that additional personal income tax of \$118.83 was due together with interest, also for the year 1973.

3. The aforementioned notices of deficiency were based on a substantiation audit conducted by the Audit Division. Contributions claimed by petitioner Karl A. Elling totalled \$360.00, with \$260.00 being allowed on audit and \$100.00 being disallowed. Additional adjustments made to petitioner Karl A. Elling's return include the disallowance of miscellaneous expenses of \$804.00 for a research and educational trip to Germany and the disallowance of home office expenses of \$896.60, out of a total claimed home office expense of \$1,407.01. These three adjustments total \$1,800.60 and comprise the basis of the deficiency issued solely against Karl A. Elling. The Notice of Deficiency issued to Karl A. and Barbara E. Elling is based solely on the disallowance of a deduction of \$1,526.50 claimed on petitioner Barbara E. Elling's return for expenses incurred on a research and educational trip to Germany.

4. During 1973, petitioners undertook three separate projects involving travel, allegedly for the maintenance and improvement of their professional skills. Petitioner Barbara E. Elling was an Associate Professor of German and had incurred expenses of \$1,526.50 while on a trip to Germany during July and August of 1973. Petitioner Karl A. Elling was an Associate Professor of Business Administration and incurred expenses of \$1,668.38 and \$804.00 while on trips to South America in June and Germany in December. The expenses incurred in South America were allowed by the Audit Division, while the expenses relating to the two trips to Germany were disallowed. Petitioners' file

contains insufficient documentary evidence to support that the expenses incurred on the two trips to Germany were for the maintenance or improvement of skills required in performing the duties of their present employment.

5. Petitioners have also failed to submit nor does their file contain documentary or other evidence which would support the disallowed portion of home office expenses and contributions.

CONCLUSIONS OF LAW

A. That petitioners have failed to meet the burden of proof imposed by section 689(e) of the Tax Law to show that they are entitled to deductions for educational expenses, home office expenses and contributions in amounts greater than those allowed by the Audit Division.

B. That the Notice of Deficiency issued to Karl A. and Barbara E. Elling in the amount of \$118.83 incorrectly includes Karl A. Elling's name since the adjustment upon which this deficiency is based pertains only to a deduction claimed on the separate return of petitioner Barbara E. Elling.

C. That the petition of Karl A. Elling and Barbara E. Elling is granted to the extent indicated in Conclusion of Law "B" and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

~~MAY 01 1981~~

JAN 06 1982

STATE TAX COMMISSION

Gene W. Sully
PRESIDENT

Thomas H. Spence
COMMISSIONER

Francis R. Koenig
COMMISSIONER

TA 26 (9-79)

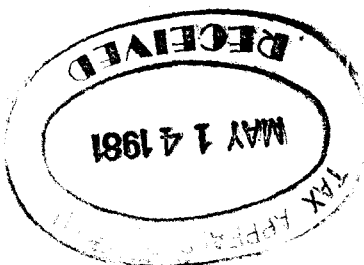
STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

1. ☒ Mailed, full payment
2. ☐ Unknown
3. ☐ No such street
4. ☐ Vacant
5. ☐ Out of business
6. ☐ Insufficient address

DO NOT RECALL

Kathy Anne Barbara E. Elling
c/o Robert Aldrich, President
56 Hamilton Avenue
Huntington Station, NY 11746

*Butler Address
5-15-81*



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STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Karl A. & Barbara E. Elling :
AFFIDAVIT OF MAILING :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Sales & Use Tax :
under Article 28 & 29 of the Tax Law :
for the Period 3/1/74-2/28/77. :

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 29th day of May, 1981, he served the within notice of Decision by certified mail upon Karl A. & Barbara E. Elling, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Karl A. & Barbara E. Elling
15 Sunnywoods Dr.
Huntington Station, NY 11746

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
29th day of May, 1981.

Cherie A. Hagelund

J. Vredenburg

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

Remailed: May 29, 1981
~~May 1, 1981~~

Karl A. & Barbara E. Elling
15 Sunnywoods Dr.
Huntington Station, NY 11746

Dear Mr. & Mrs. Elling:

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
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Karl A. Elling
15 Sunnywoods Drive
Huntington, NY 11746
Taxing Bureau's Representative