

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE PETITION

OF

LOUIS & SAM FARGNOLI a/b/a
FARGNOLI BROS.

FOR REDETERMINATION OF DEFICIENCY OR
REFUND OF UNINCORPORATED BUSINESS TAX
UNDER ARTICLE 23 OF THE TAX LAW FOR
THE YEAR 1960

The taxpayers having filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1960 (File No. F-1411) and a hearing having been held at the office of the State Tax Commission at 184 Court Street, Binghamton, New York on October 7, 1964 before Vincent F. Molineman, Hearing Officer, of the Department of Taxation and Finance, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers filed a New York State unincorporated business tax return for the year 1960 and the amount shown to be due thereon was paid.

(2) That the Commissioner of Internal Revenue on May 26, 1964 changed the amount of the income of the taxpayers for the year 1960 which resulted in an increase of unincorporated business income for the said year.

(3) That the taxpayers on June 24, 1964 filed with the Department of Taxation and Finance form IT-115 (Notice of Change in Net Income by United States Treasury Department pursuant to Section 367 of the Tax Law) showing additional income resulting from Federal audit in the amount of \$25,326.34 for the year 1960; that the taxpayers computed on the form IT-115

the amount of the additional unincorporated business tax due in the sum of \$310.44 for the year 1960 and that the taxpayers failed and refused to pay the additional unincorporated business tax due as computed by them on the said form, IT-215, on the ground that no assessment could be made more than three years after the return was made (Tax Law Sec. 373(1)).

(4) That on March 15, 1965 the State Tax Commission issued a determination of deficiency of unincorporated business tax for the year 1960 in the amount of \$1,746.10 based upon Federal audit as reported by the taxpayers on form IT-215.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

DETERMINES:

That the determination of deficiency made by the State Tax Commission (File No. P-1411) for the year 1960 was timely made in accordance with subdivision 4 of section 373 of the Tax Law and paragraph (d) of Article 571(a) of the Personal Income Tax Regulations; that, accordingly, the assessment is correct; that said assessment does not include any tax or other charge which could not have been lawfully demanded and that the petition filed in respect thereto be and the same hereby is denied.

DATED: Albany, New York on this 3rd day of March , 1967.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

PRESIDENT

/s/

JAMES R. MACDUFF

COMMISSIONER

/s/

WALTER MACLYN CONLON

COMMISSIONER