

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RUDOLPH CAPUTO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article ~~XX~~ 23 of the :  
Tax Law for the Year ~~(XXXXXX XXXXXX)~~ 1969.

State of New York  
County of Albany

Catherine Steele, being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 26th day of August, 1976, she served the within  
Notice of Decision by (certified) mail upon Rudolph Caputo

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Rudolph Caputo  
1559 73rd Street  
Brooklyn, New York

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)~~  
~~XXXXXX~~ 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

26th day of August, 1976.

Catherine Steele

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RUDOLPH CAPUTO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article ~~XX~~ 23 of the :  
Tax Law for the Year ~~(2) OF PART (XX)~~ 1969.:  
~~(2) OF PART (XX)~~

State of New York  
County of Albany

Catherine Steele, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 26th day of August, 1976, she served the within Notice of Decision by (certified) mail upon Bernard Golar (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Bernard Golar  
10 Highview Road  
Monsey, New York 10952  
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

26th day of August, 1976

Catherine Steele

Janet Mach



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

August 26, 1976

TELEPHONE: (518) ~~457-3850~~

Mr. Rudolph Caputo  
1559 73rd Street  
Brooklyn, New York

Dear Mr. Caputo:

Please take notice of the **DECISION**  
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to  
Section ~~720~~ **722** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
from the date of this notice.

Inquiries concerning the computation of tax  
due or refund allowed in accordance with this  
decision or concerning any other matter relative  
hereto may be addressed to the undersigned. They  
will be referred to the proper party for reply.

Very truly yours,  
*Frank J. Puccia*  
**Frank J. Puccia**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :

of :

RUDOLPH CAPUTO :

DECISION

for Redetermination of Deficiency or for :  
Refund of Unincorporated Business Tax  
for the Year 1969 under Article 23 of the:  
Tax Law.

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Petitioner, Rudolph Caputo, 1559 73rd Street, Brooklyn, New York 10952, filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1969. (File No. 9-44842675). A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 29, 1976, at 10:45 A.M. Petitioner appeared by Bernard Golar. The Income Tax Bureau appeared by Peter Crotty, Esq., (James Scott, Esq. of counsel).

#### ISSUE

Do the petitioner's activities as a polygraph examiner constitute the carrying on of an unincorporated business?

#### FINDINGS OF FACT

1. Petitioner, Rudolph Caputo, and his wife filed a joint New York State income tax resident return for 1969. He did not file a New York State unincorporated business tax return for 1969.

2. On June 24, 1974, the Income Tax Bureau issued a Statement of Audit Changes and Notice of Deficiency against petitioner, Rudolph Caputo, imposing unincorporated business tax upon the income received by him from his activities as a polygraph examiner during the year 1969. It also imposed a penalty of \$116.41 in accordance with sections 685(a)(1) and (a)(2) of Article 22 and section 722 of Article 23.

3. Petitioner, Rudolph Caputo, worked as an investigator and polygraph examiner during the year 1969. His income for the year was derived from two types of sources. The first source was from full-time employers whom he worked for as an investigator and polygraph examiner. This source was not deemed subject to the unincorporated business tax by the Income Tax Bureau.

The second source of income was derived from his duties as a polygraph examiner acting as an outside contractor. This is the source of income which the Income Tax Bureau has held subject to unincorporated business tax.

4. Mr. Caputo became interested in polygraph work while serving in the U.S. Naval Intelligence in China during World War II. On his return to the United States, he was selected to take a six-week course, which included in part, instruction in the skills of becoming a polygraph examiner.

5. New York State has no licensing requirement or certification standards for polygraph examiners.

CONCLUSIONS OF LAW

That the activities of petitioner, Rudolph Caputo, as a polygraph examiner during the year 1969, although requiring special knowledge, did not constitute the practice of a profession exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law.

DATED: Albany, New York  
August 26, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER