

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALBERT LIZEWSKI and CARL LIZEWSKI

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article(x) 23 of the :  
Tax Law for the Year(s) ~~xx~~Period(s) :  
1966, 1967, 1968 and 1969.

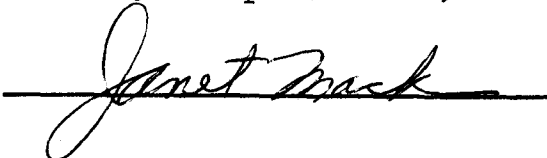
State of New York  
County of Albany

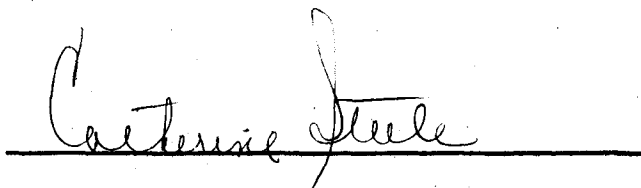
Catherine Steele, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Albert Lizewski and Carl Lizewski (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Messrs. Albert Lizewski & Carl Lizewski  
59 Norman Avenue  
Brooklyn, New York 11222  
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, 1976.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALBERT LIZEWSKI and CARL LIZEWSKI :

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article(s) 23 of the :  
Tax Law for the Year(s) or Period(s) :  
1966, 1967, 1968 and 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 28th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Maurice H. Kronowitz, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Maurice H. Kronowitz, Esq.  
16 Court Street  
Brooklyn, New York 11201  
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, 1976.

Catherine Steele

Janet Marsh



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

September 28, 1976

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

Messrs. Albert Lizewski & Carl Lizewski  
59 Norman Avenue  
Brooklyn, New York 11222

Gentlemen:

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

Please take further notice that pursuant to  
Section(§) **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	:	
ALBERT LIZEWSKI AND CARL LIZEWSKI	:	DECISION
for a Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business Taxes	:	
under Article 23 of the Tax Law for the	:	
Years 1966, 1967, 1968 and 1969.	:	

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Petitioners, Albert Lizewski and Carl Lizewski, 59 Norman Avenue, Brooklyn, New York 11222 filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1966, 1967, 1968 and 1969. (File No. 2701). A small claims hearing was held before Joseph Marcus, Small Claims Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 10, 1976. Petitioners appeared by Maurice H. Kronowitz, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

ISSUES

I. Were penalties properly imposed under former section 685(a) of the Tax Law for failure to file New York State income and unincorporated business tax partnership returns for the taxable years 1966, 1967 and 1968 and were penalties properly imposed under sections 685(a)(1) and 685(a)(2) of the Tax Law for failure to file

(2)

a New York State income and unincorporated business tax partnership return and to pay the tax due for the taxable year 1969?

II. Were the petitioners liable for the negligence penalties imposed under section 685(b) of the Tax Law for the taxable years 1966, 1967 and 1968?

FINDINGS OF FACT

1. Petitioners, Albert Lizewski and Carl Lizewski, owned and operated a grocery business during the years 1966, 1967, 1968 and 1969.

2. The petitioners did not file New York State unincorporated business tax returns or New York State income and unincorporated business tax partnership returns for the tax years 1966 and 1967. The petitioners filed New York State income and unincorporated business tax partnership returns (Forms IT-204) for the taxable years 1968 and 1969, but neglected to complete Schedule U-D and to pay the unincorporated business tax due. Furthermore, the 1969 New York State income and unincorporated business tax return was not timely filed.

3. On July 30, 1973, the Income Tax Bureau issued a Notice of Deficiency for the years in question for an amount equal to the tax plus interest thereon and penalties pursuant to sections 685(a) and 685(b) of the Tax Law for the tax years 1966, 1967 and 1968 and pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law for the tax year 1969.

(3)

4. Petitioners paid an amount equal to the tax and interest on August 28, 1973, omitting the penalty.

5. The petitioners stated that since the partnership of Albert Lizewski and Carl Lizewski was a father and son operation, there was "reasonable cause" why the penalties for the years in question should not be imposed. However, the petitioners failed to further identify the "reasonable cause".

CONCLUSIONS OF LAW

A. That the petitioners have failed to show reasonable cause why penalties should not be imposed under section 685(a) of the Tax Law for failure to file New York State income and unincorporated business tax partnership returns for the tax years 1966 and 1967 and therefore, said penalties are sustained.

B. That the petitioners have not shown that the deficiency with respect to the years 1966 and 1967 was not due to negligence or intentional disregard for the provisions of the Tax Law and regulations thereunder, and, therefore, the penalties imposed under section 685(b) of the Tax Law for the years 1966 and 1967 are sustained.

C. That the New York State income and unincorporated business tax partnership return filed by the petitioners for the tax year 1968 is considered to be a return which was timely filed, and, therefore, the penalties imposed under former section 685(a) and section 685(b) of the Tax Law for the year 1968 are waived.

D. That the petitioners have not shown reasonable cause for failure to file the 1969 New York State income and unincorporated

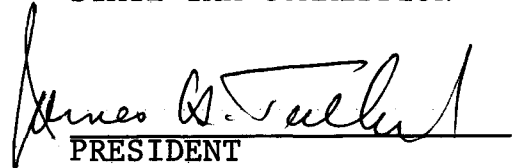
(4)

business tax partnership return on or before the due date or for failure to pay the tax due thereon on or before the due date, and, therefore, the penalties imposed under sections 685(a)(1) and 685(a)(2) of the Tax Law for the tax year 1969 are sustained.

E. That the petition of Albert Lizewski and Carl Lizewski is granted to the extent of cancelling the penalties imposed pursuant to sections 685(a) and 685(b) of the Tax Law for the year 1968; that the Income Tax Bureau is hereby directed to modify the Notice of Deficiency issued July 30, 1973 to take into account the cancellation of the penalties for the tax year 1968 and the petitioners' previous payment of tax and interest; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York  
September 28, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER