

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Thomas P. Collins :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law for :
the Year 1973. :
:

AFFIDAVIT OF MAILING

State of New York
County of Albany

David Parchuck, 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 13th day of May, 1983, he served the within notice of Decision by certified mail upon Thomas P. Collins, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Thomas P. Collins
24 Hollywood Pl.
Huntington, NY 11743

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
13th day of May, 1983.

David Parchuck

Commie A. Heggen
AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

May 13, 1983

Thomas P. Collins
24 Hollywood Pl.
Huntington, NY 11743

Dear Mr. Collins:

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, 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 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
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE TAX COMMISSION

1. Thomas P. Collins, (hereinafter petitioner) timely filed a joint New York State Income Tax Resident Return with his wife for the year 1973 whereon he reported business income of \$13,173.00 derived from his activities as an

electrical contractor. He did not timely file an unincorporated business tax return for said year.

2. On February 28, 1977, the Audit Division issued a Statement of Audit Changes to petitioner wherein it held that the income from his electrical contractor activities was subject to the unincorporated business tax. Additionally, it asserted penalties pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law for failure to file an unincorporated business tax return and failure to pay the tax determined to be due respectively. Accordingly, a Notice of Deficiency was issued against petitioner under the same date asserting unincorporated business tax of \$304.59, said penalties of \$121.93, plus interest of \$65.65, for a total due of \$492.17.

3. On March 17, 1977, petitioner filed an unincorporated business tax return for 1973 and subsequently paid the tax computed on such return plus interest. The tax computed by petitioner differs from that computed on the Notice of Deficiency as the result of a contribution deduction taken by petitioner on such return.

4. Petitioner contended that his failure to timely file an unincorporated business tax return for 1973 was due to an error made by his accountants, Morett & Siev, CPA's as evidenced by his perfected petition prepared by such accountants wherein they stated that such penalties "are a result of his accountants error".

5. Petitioner had filed unincorporated business tax returns for years prior and subsequent to the year at issue.

CONCLUSIONS OF LAW

A. That petitioner's failure to timely file an unincorporated business tax return and pay the tax determined was due to reasonable cause and not due

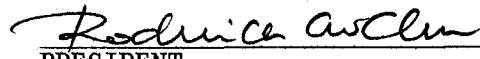
to willfull neglect. Accordingly, the penalties asserted pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law are abated.

B. That the petition of Thomas P. Collins is granted and the Notice of Deficiency dated February 28, 1977 is hereby cancelled.

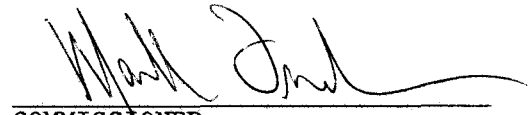
DATED: Albany, New York

STATE TAX COMMISSION

MAY 13 1983


PRESIDENT


COMMISSIONER


COMMISSIONER