

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :  
of  
Louis Coppola & Michael Cafiero  
d/b/a Neptune Marine :

AFFIDAVIT OF MAILING

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 1975.

State of New York  
County of Albany

Connie Hagelund, 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 8th day of July, 1983, she served the within notice of Decision by certified mail upon Louis Coppola & Michael Cafiero, d/b/a Neptune Marine the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Louis Coppola & Michael Cafiero  
d/b/a Neptune Marine  
2023 Neptune Ave.  
Brooklyn, NY 11224

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  
8th day of July, 1983.





AUTHORIZED TO ADMINISTER  
OATHS PURSUANT TO TAX LAW  
SECTION 174

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

July 8, 1983

Louis Coppola & Michael Cafiero  
d/b/a Neptune Marine  
2023 Neptune Ave.  
Brooklyn, NY 11224

Gentlemen:

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 OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
LOUIS COPPOLA and MICHAEL CAFIERO	:	DECISION
D/B/A NEPTUNE MARINE	:	
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Tax under	:	
Article 23 of the Tax Law for the Year 1975.	:	

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Petitioners, Louis Coppola and Michael Cafiero, d/b/a Neptune Marine, 2023 Neptune Avenue, Brooklyn, New York 11224, filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1975 (File No. 29233).

On August 28, 1981, petitioners informed the State Tax Commission that they desired to waive a formal hearing and to submit the case to the State Tax Commission based on the entire record contained in the file and other material subsequently submitted. After due consideration of the record, the Commission renders the following decision.

ISSUE

Whether petitioners provided sufficient substantiation to support the business deductions disallowed by the Audit Division.

FINDINGS OF FACT

1. Louis Coppola and Michael Cafiero were partners in Neptune Marine, which was engaged in the sale of boats and boat accessories.

2. Neptune Marine filed a New York State Partnership Return for 1975. Said return showed total income of \$84,534.28, less deductions of \$97,496.66 (including payments to partners of \$18,600.00) for an ordinary loss of \$12,962.38.

The loss offset against the payments to partners of \$18,600.00 less allowance for partners' services of \$1,127.00 resulted in net income of \$4,510.62.

Schedule U-D indicated that no unincorporated business tax was due since the exemption of \$5,000.00. was greater than the net income reported of \$4,510.62.

3. On February 13, 1979, the Audit Division issued a Statement of Audit Changes to Louis Coppola and Michael Cafiero, d/b/a Neptune Marine wherein \$128,333.00 or fifty percent of the following purchases and business deductions were disallowed for lack of substantiation:

Purchases	\$191,414.14
Salaries	16,710.00
Rent	5,418.32
Taxes	32,420.83
Other Expenses	16,541.78

The disallowed purchases and business deductions were adjusted to \$119,461.00 to reflect the maximum allowance granted for partner's services. Said amount was determined to be business income subject to unincorporated business tax.

On April 5, 1979, the Audit Division issued a Notice of Deficiency to petitioners asserting unincorporated business tax of \$6,543.46, plus interest of \$1,653.31, for a total due of \$8,196.77. On August 10, 1979 a Notice and Demand for Payment of Income Tax Due was issued. However, a petition was filed by petitioner.

4. Petitioners substantiated the deductions disallowed by the Audit Division.

#### CONCLUSIONS OF LAW


A. That petitioners have sustained the burden of proof required by section 689(e) of the Tax Law to establish that the purchases and business deductions claimed on the partnership return for 1975 were proper. Accordingly, there was no unincorporated business tax due for 1975.

B. That the petition of Louis Coppola and Michael Cafiero, d/b/a Neptune Marine is granted and the Notice of Deficiency issued April 5, 1979 and the Notice and Demand issued August 10, 1979 are cancelled.


DATED: Albany, New York

STATE TAX COMMISSION

JUL 08 1983

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER