

STATE OF NEW YORK
STATE TAX COMMISSION

Wolf, David & Esther
Personal Income
Article 22

In the Matter of the Petition

of

David Wolf & Esther Wolf, his wife

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1961

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 15th day of January , 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon David Wolf & Esther Wolf, his wife (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Louis R. Miller, CPA
250 West 57th Street
New York, New York 10019
Attn: Milton Fiaklow, Esq.
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

15th day of January , 1971,

Joyce S. Sanbatten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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105-33 63rd Road
Forest Hills, 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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

15th day of January, 1971.

Joyce S. Van Patten

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
DAVID WOLF AND ESTHER WOLF, his wife	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
year 1961	:	

Taxpayers filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1961. A formal hearing was held in the offices of the State Tax Commission in the City of New York on January 15, 1965, and continued on May 12, 1965. The taxpayers were represented by Milton Fialkow, Esq.

FINDINGS OF FACT

1. The issue in this case is whether the taxpayer's claim for a business loss of \$24,624.10 for the year 1961 was proper.
2. Mr. Wolf purchased a drug store in March, 1961. In November, 1961 a fire in the building in which the store was located caused damage to the premises in the amount of \$7,575.14. These damages were received through insurance. Shortly thereafter, Mr. Wolf, because of the fire and poor business, made an assignment of the business and all the assets for the benefit of his creditors. On their 1961 New York tax return, the taxpayers reported a business loss of \$24,624.10.
3. A statement of audit changes, file #1-6445620, dated May 25, 1964, was issued disallowing the above business loss and assessing the taxpayer additional taxes in the amount of \$1,825.41 plus interest.

DECISION

A. The petitioner has failed to carry the burden of proof that he realized a business loss for the year 1961 in the amount of \$24,624.10.

B. The petitioner's claim for a business loss was properly disallowed. Therefore, the assessment is sustained and the petition is denied.

DATED: Albany, New York
January 13, 1970

STATE TAX COMMISSION

Norman Gallivan

COMMISSIONER

COMMISSIONER

Milton Koerner

COMMISSIONER