

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DOMINIC DE BELLA (Deceased) and
MARGUERITE DE BELLA
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)) 1963, 1964 and
1965

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 February, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon DOMINIC & MARGUERITE DE BELLA (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Dominic & Marguerite De Bella
38 Pearson Street
Lincoln Park, New Jersey
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 February, 1973

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DOMINIC DE BELLA (Deceased) and

MARGUERITE DE BELLA

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) 1963, 1964 and
1965

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 February, 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon RICHARD DE BELLA

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Richard De Bella
118 Cooper Drive
New Rochelle, 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 February, 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 15, 1973

Dominic & Marguerite De Bella
38 Pearson Street
Lincoln Park, New Jersey

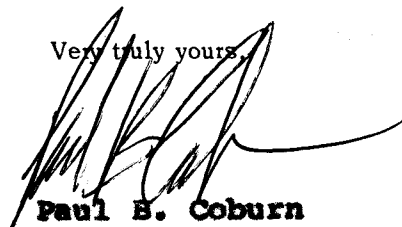
Dear Mr. and Mrs. De Bella:

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

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,



Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
DOMINIC DE BELLA (Deceased) and	:	
MARGUERITE DE BELLA	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1963, 1964 and 1965.	:	

Petitioners, Dominic De Bella (deceased) and Marguerite De Bella, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1963, 1964 and 1965. (File No. 76074789). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on November 16, 1972, at 1:15 P.M. Petitioners appeared by Richard De Bella. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Francis X. Boylan, Esq., of Counsel).

ISSUE

Were petitioners, Dominic De Bella (deceased) and Marguerite De Bella, entitled to any refund of New York State personal income taxes paid for the years 1963, 1964 and 1965?

FINDINGS OF FACT

1. On October 10, 1969, petitioners, Dominic De Bella (deceased) and Marguerite De Bella, filed a claim for refund for New York State income taxes paid for the years 1959 through 1967 upon the grounds that they failed to deduct from New York gross income for said years pension payments received by petitioner, Dominic De Bella, (deceased) from the New York City fire department pension fund in said years.

2. On November 13, 1969, the Income Tax Bureau denied the claim for refund set forth in paragraph "1" for all years prior to 1966 upon the grounds that the claim for refund for said prior years was barred by section 687 of the Tax Law.

3. On June 2, 1971, a petition was filed for refund of personal income tax for the years 1963, 1964 and 1965 upon the grounds set forth in paragraph "1".

4. Petitioner, Dominic De Bella (deceased), received a gross annual pension of \$3,040.44 from the New York City fire department pension fund in each of the years 1963, 1964 and 1965.

5. There was no proof introduced at the formal hearing or contained in the record to indicate the gross income of petitioners, Dominic De Bella (deceased) and Marguerite De Bella for the years 1963, 1964 and 1965 over and above the amount of the pension. Petitioners did not have in their possession any records or tax returns for said years that would indicate the amount of such additional income. The Income Tax Bureau did not have in its possession copies of the 1963, 1964 and 1965 New York State personal income tax returns filed by petitioners.

CONCLUSIONS OF LAW

A. That since petitioners, Dominic De Bella (deceased) and Marguerite De Bella, were unable to establish the amount of their gross income or the amount of New York State income tax paid for the years 1963, 1964 and 1965, therefore, it is impossible for the State Tax Commission to determine the amount of a refund that they would be entitled to if their claim for refund was timely filed. In view of the foregoing conclusion of law, it is not necessary for the State Tax Commission to decide at this time whether their claim for refund for said years was barred by section 687 of the Tax Law.

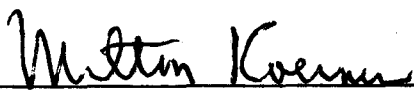
B. That the petition of Dominic De Bella (deceased) and Marguerite De Bella is denied.

DATED: Albany, New York
February 15, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER