

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE B. & JOANNA BOETTNER

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article(x) 22 of the :
Tax Law for the Year(s) ~~xxx Period(s)~~ :
1972 & 1973

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor , 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 27 day of April , 1977, He served the within
Notice of Decision by (certified) mail upon George B. & Joanna
Boettner (~~representative of the~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. & Mrs. George B. Boettner
22 Brown Road
Corning, New York 14830
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

27 day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE B. & JOANNA BOETTNER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~68~~ 22 of the :
Tax Law for the Year(s) ~~1972~~ 1972 & 1973 :
1972 & 1973

State of New York
County of Albany

Bruce Batchelor , 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 27 day of April , 19 77, he served the within
Notice of Decision by (certified) mail upon Walter R. Conlin, P.A.

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Walter R. Conlin, P.A.
P. O. Box 1386
Corning, New York 14830

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

27 day of April , 1977

Bruce Batchelor

Janet Mack



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

April 27, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. George B. Boettner
22 Brown Road
Corning, New York 14830

Dear Mr. & Mrs. Boettner:

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

Please take further notice that pursuant to
Section ~~(a)~~ **690** 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

In the Matter of the Petition	:	
of	:	
GEORGE B. and JOANNA BOETTNER	:	DECISION
for Redetermination of Deficiencies or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Years	:	
1972 and 1973.	:	

Petitioners, George B. and Joanna Boettner, residing at 22 Brown Road, Corning, New York 14830, have filed petitions for redetermination of deficiencies or for refund of personal income taxes under Article 22 of the Tax Law for the years 1972 and 1973. File Nos. 2-17071141 and 3-30674307). A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Governmental Civic Center, 44 Hawley Street, Binghamton, New York, on October 19, 1976, at 10:45 a.m. Petitioners appeared by Walter R. Conlin, P.A. The Income Tax Bureau appeared by Peter Crotty, Esq., (James Scott, Esq., of counsel).

ISSUE

Did petitioners, George B. and Joanna Boettner, properly deduct amounts that they claimed for Rotary Club dues, meetings and contributions, employee business expenses and taxes on their

1972 personal income tax return, and for capital loss, contributions and miscellaneous deductions on their 1973 personal income tax return?

FINDINGS OF FACT

1. Petitioners, George B. and Joanna Boettner, filed timely New York State joint personal income tax returns for the years 1972 and 1973. The Income Tax Bureau issued Statements of Audit Changes March 20, 1974 for the year 1972 and June 23, 1975 for the year 1973 setting forth the following adjustments;

<u>Year 1972</u>	<u>Claimed</u>	<u>Allowed</u>	<u>Disallowed</u>
Rotary dues, meetings, contributions	\$ 208.00	-0-	208.00
Employee business expenses	1836.85	-0-	1836.85
Taxes	3750.82	3268.27	482.55
 <u>Year 1973</u>			
Capital Loss	(439.25)	-0-	439.25
Contributions	3062.12	2160.00	902.12
Miscellaneous deductions	950.94	-0-	950.94

The Income Tax Bureau disallowed Rotary Club dues, meetings and contributions upon the grounds that they were not ordinary and necessary business expenses. It disallowed \$1,458.48 of the \$1,836.85 claimed as employee business expenses because petitioner, George B. Boettner, **did not request** reimbursement from his employer and that they were unsubstantiated. The \$378.37 balance of employee business expenses was disallowed because petitioner, George B. Boettner, did not submit substantiating documentation. The taxes for 1972 and all of the 1973 deductions listed above were disallowed because petitioners, George B. and

Joanna Boettner, did not submit documentation to substantiate the deductions claimed. In accordance with the Statements of Audit Changes, Notices of Deficiency were issued August 26, 1974 for the year 1972 in the amount of \$380.83 additional personal income tax due, plus \$38.97 interest, for a sum of \$419.80, and October 27, 1975 for the year 1973 in the amount of \$343.84 additional personal income tax due, plus \$39.57 interest, for a sum of \$383.41.

2. In 1972 petitioner, George B. Boettner, was an executive and senior engineer employed by Corning Glass Works which is located in Corning, New York. His employer encouraged employees to participate in community affairs such as the Rotary Club. Such participation by petitioner, George B. Boettner, resulted in the incurrence of \$208.00 in expenses. ✓

3. Petitioner, George B. Boettner, contended that during 1972 he was required to be mobile at all times in behalf of his employer and, because of this, he incurred \$1,458.48 automobile expenses. He failed to submit any documentary or other substantial evidence that he incurred said expenses. Petitioner, George B. Boettner, did not request reimbursement for automobile expenses from his employer. In connection with income producing property in another state, petitioner, George B. Boettner, incurred business expenses in the amount of \$378.37 during the year 1972.

4. Petitioner, George B. and Joanna Boettner, expended \$3,493.39 for taxes during the year 1972. They failed to submit any documentary or other substantial evidence in excess of this amount.

5. For the year 1973 petitioners, George B. and Joanna Boettner, had a capital loss in the amount of \$439.25, made charitable contributions of \$2,991.12 and incurred proper miscellaneous deduction expenses in the amount of \$770.94. They failed to submit any documentary or other substantial evidence in excess of these amounts.

CONCLUSIONS OF LAW

A. That the employee business expenses claimed for the year 1972 for Rotary Club expenses in the amount of \$208.00 and for automobile expenses of \$1,458.48 were nondeductible in accordance with section 162 of the Internal Revenue Code.

B. That the petition of George B. and Joanna Boettner is granted only to the extent of reflecting the determination as follows:

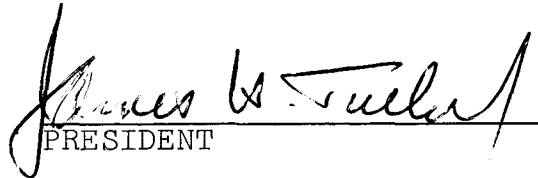
<u>Year 1972</u>	<u>Claimed</u>	<u>Allowed</u>	<u>Disallowed</u>
Rotary dues, meetings, contributions	\$ 208.00	-0-	208.00
Employee business expenses	1836.85	378.37	1458.48
Taxes	3750.82	3493.39	257.43
<u>Year 1973</u>			
Capital loss	(439.25)	(439.25)	-0-
Contributions	3062.12	2991.12	71.00
Miscellaneous deductions	950.94	770.94	180.00

C. That the Income Tax Bureau is hereby directed to accordingly modify the Notices of Deficiency issued August 26, 1974

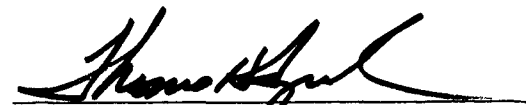
for the year 1972 and October 27, 1975 for the year 1973 and;
except as so granted, the petition is in all other respects
denied.

DATED: Albany, New York
April 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER