

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
EMIL V. and ETHEL C. PILZ

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1971 and 1972.

State of New York  
County of Albany

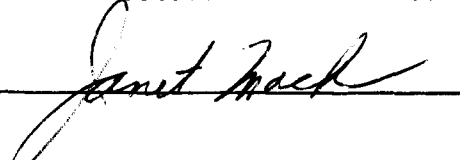
John Huhn, being duly sworn, deposes and says that  
he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 3rd day of October, 19 77, he served the within  
Notice of Decision by (certified) mail upon Emil V. and  
Ethel C. Pilz (representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. and Mrs. Emil V. Pilz  
310 Orchard Place  
Ridgewood, New Jersey 07450

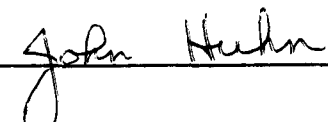
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

3rd day of October, 1977.

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

October 3, 1977

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

Mr. and Mrs. Emil V. Pils  
310 Orchard Place  
Ridgewood, New Jersey 07450

Dear Mr. and Mrs. Pils:

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** 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 Laws 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 the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywat  
Hearing Examiner

cc: ~~Petitioner's Representative~~  
~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
EMIL V. AND ETHEL C. PILZ	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Years 1971 and 1972.	:	

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Petitioners, Emil V. and Ethel C. Pilz, residing at 310 Orchard Place, Ridgewood, New Jersey 07450, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1971 and 1972. (File No. 13616).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on March 9, 1977 at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner, Emil V. Pilz, appeared pro se and for his wife, petitioner, Ethel C. Pilz. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irving Atkins, Esq. of counsel).

ISSUES

I. Whether petitioners, Emil V. and Ethel C. Pilz, properly deducted amounts claimed as depreciation on their 1971 New York State income tax nonresident return.

II. Whether petitioners, Emil V. and Ethel C. Pilz, are entitled to a refund of personal income tax for the year 1972 due to an additional deduction claimed for depreciation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner Emil V. Pilz was the senior partner and sole capital partner of Jarvis, Pilz, Buckley and Treacy.

2. All the property, assets and business of the partnership were the property of petitioner Emil V. Pilz.

3. In computing the ordinary income of the partnership for the years 1971 and 1972, the partnership deducted depreciation expense of \$7,272.82 and \$6,973.09, respectively.

4. On the New York State nonresident income tax return filed by petitioners, Emil V. and Ethel C. Pilz, for the year 1971, they reduced total New York State income by \$7,272.82, which represented depreciation expense on property owned by petitioner Emil V. Pilz and used by the partnership.

5. Petitioners, Emil V. and Ethel C. Pilz, claimed refund of personal income tax for the year 1972 on the grounds that they failed to reduce total New York State income reported for the year 1972 by \$6,973.09, which represented depreciation expense on property owned by petitioner Emil V. Pilz and used by the partnership.

6. The position of petitioners, Emil V. and Ethel C. Pilz, is found to be without merit since the partnership had deducted the depreciation expense at issue in computing its ordinary income which the partnership allocated among its members.

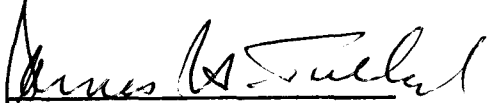
7. The refund claimed by petitioners, Emil V. and Ethel C. Pilz, is denied.

8. The petition of Emil V. and Ethel C. Pilz is denied and the Notice of Deficiency issued on March 31, 1975 in the amount of \$1,836.43 is sustained, together with such additional interest as may be legally owing.

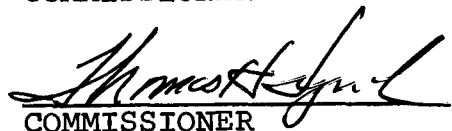
DATED: Albany, New York

October 3, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER