

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RUFUS G. AND CAROLYN E. POOLE

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income Taxes :
Taxes under Article ~~48~~ 22 of the :
Tax Law for the Year ~~(1971 or 1972)~~ 1972 :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
Xshe is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 25th day of May , 19 77, Xshe served the within
Notice of Decision by (certified) mail upon Jay R. Deutsch, CPA
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Jay R. Deutsch, CPA
293 Peachtree Dr.
East Norwich, N. Y. 11732
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

25th day of May , 19 77

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RUFUS G. AND CAROLYN E. POOLE

AFFIDAVIT OF MAILING

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

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
~~she~~ he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 25th day of May , 19 77, ~~she~~ he served the within
Notice of Decision by (certified) mail upon Rufus G. and
Carolyn E. Poole(~~representative of the~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Rufus G. and Carolyn E. Poole
4 Burnside Avenue
Short Hills, New Jersey 07078
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~~
~~xxx~~) 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

25th day of May , 197 .

Bruce Batchelor

Janet MacL



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

May 25, 1977

ADDRESS YOUR REPLY TO

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

Rufus G. and Carolyn E. Poole
4 Burnside Avenue
Short Hills, New Jersey 07078

Dear Mr. and Mrs. Poole:

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

Please take further notice that pursuant to
Section(4) **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

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	:	
RUFUS G. AND CAROLYN E. POOLE	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the	:	
Year 1972.	:	

Petitioners, Rufus G. and Carolyn E. Poole, residing at 4 Burnside Avenue, Short Hills, New Jersey 07078, 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 year 1972. (File No. 12749).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on September 14, 1976, at 9:15 a.m., at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioners appeared by Jay R. Deutsch, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (I. A. Levy, Esq., of counsel).

ISSUE

Whether a partnership loss can be allocated between periods of residence and nonresidence during the year 1972.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioners, Rufus G. and Carolyn E. Poole, were residents of New York State until September 15, 1972.

2. Petitioner, Rufus G. Poole, is a member of a Michigan partnership, that is on a calendar year basis. During 1972, his distributive share of a partnership loss was \$9,884.00, which he allocated on his resident and nonresident personal income tax returns.

3. The petitioners' distributive share of the partnership loss cannot be prorated between the resident and nonresident returns, and must be included in that portion of the year in which the taxable year of the partnership ends, pursuant to 20 NYCRR 148.6. Since the loss was not a loss from New York State sources within the meaning and intent of section 632(b) of the Tax Law, it may not be deducted on petitioners' 1972 nonresident return.


4. The petition of Rufus G. and Carolyn E. Poole is denied and the Notice of Deficiency issued March 31, 1975 for \$1,095.36 is sustained.

DATED: Albany, New York
May 25, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER