

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

AFFIDAVIT OF MAILING

EDWIN C. STOKES and ELEANOR K. STOKES

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income and
of Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the Year ~~(X) 1976 (X)~~
1962

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 11th day of October, 1977, he served the within

Notice of Decision by (certified) mail upon Edwin C. Stokes and

Eleanor K. Stokes, ~~representative of~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

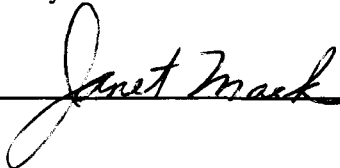
as follows: Edwin C. Stokes and Eleanor K. Stokes
P.O. Box 65
Pearl River, New York 10965

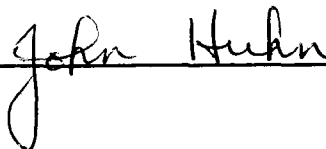
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

11th day of October, 1977.







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

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

October 11, 1977

Edwin C. Stokes and Eleanor K. Stokes
P.O. Box 65
Pearl River, New York 10965

Dear Mr. and Mrs. Stokes:

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 & 722** 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,

John J. Sollecito
Director

cc: ~~XXXXXXXXXXXXXXXXXXXX~~
Pensioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petitions	:	
of	:	
EDWIN C. STOKES and ELEANOR K. STOKES	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income and Unincorporated	:	
Business Taxes under Articles 22 and 23 of	:	
the Tax Law for the Year 1962.	:	

Petitioners, Edwin C. Stokes and Eleanor K. Stokes, P.O. Box 65, Pearl River, New York 10965, filed petitions for re-determination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the year 1962. (File No. 01392).

A formal hearing was held before Michael Alexander, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 28, 1976 at 10:45 A.M. and continued on December 7, 1976 at 11:05 A.M. Petitioner Edwin C. Stokes appeared pro se and for his wife. The Income Tax Bureau appeared by Peter Crotty, Esq. (Arthur Rosen, Esq. and William Fox, Esq., of counsel).

ISSUES

I. Whether the notices of deficiency were timely sent to petitioners, Edwin C. Stokes and Eleanor K. Stokes, for taxes due in 1962.

II. Whether the Income Tax Bureau properly disallowed business deductions claimed by petitioners, Edwin C. Stokes and Eleanor K. Stokes, on their 1962 personal income tax return and claimed by petitioner Edwin C. Stokes on his 1962 unincorporated business tax return.

FINDINGS OF FACT

1. Petitioners, Edwin C. Stokes and Eleanor K. Stokes, filed a New York State resident income tax return for 1962. Petitioner Edwin C. Stokes also filed an unincorporated business tax return for that year.

2. The Federal schedule regarding the profit or loss for 1962 from business as a general contractor in the construction of homes, claimed deductions of \$143,928.73 for "other costs", \$3,001.63 for repairs and machinery parts and \$13,688.60 for "other business expenses."

3. On March 14, 1966, the Income Tax Bureau issued a Statement of Audit Changes to petitioner Edwin C. Stokes for additional unincorporated business tax for the year 1962, upon the grounds that the latter two deductions and \$33,189.22 of the deduction

for "other costs" mentioned in Findings of Fact "2" above, are disallowed as unsubstantiated. The additional tax stated was \$1,951.79, plus interest of \$340.45. Accordingly, a Notice of Deficiency totalling \$2,292.24 was issued on March 14, 1966 to petitioner Edwin C. Stokes.

4. On March 14, 1966, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Edwin C. Stokes and Eleanor K. Stokes, for additional personal income tax for the year 1962 upon the grounds that the deductions mentioned in Findings of Fact "2" and "3" above, are disallowed as unsubstantiated. The additional tax stated was \$4,947.95, plus interest of \$863.07. Accordingly, a Notice of Deficiency totalling \$5,811.02 was issued on March 14, 1966 to petitioners, Edwin C. Stokes and Eleanor K. Stokes.

5. Petitioner Edwin C. Stokes presented two suitcases which contained bills and cancelled checks for the year 1962, sufficient to substantiate the deductions in issue.

CONCLUSIONS OF LAW

A. That the notices of deficiency sent to the petitioners on March 14, 1966, were sent in compliance with the provisions of section 683 of the Tax Law.

B. That the bills and checks in payment thereof for 1962 sufficiently substantiate the deductions claimed by petitioners on their returns for both personal and unincorporated business income tax.

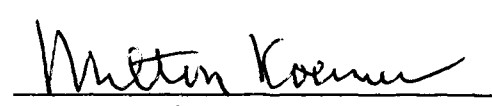
C. That the petitions of Edwin C. Stokes and Eleanor K. Stokes are granted and the notices of deficiency sent March 14, 1966 are cancelled.

DATED: Albany, New York
October 11, 1977

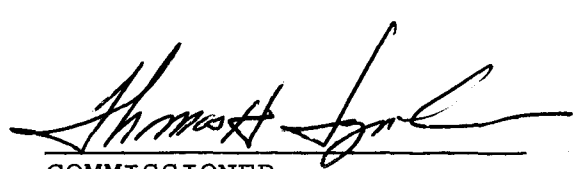
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER