

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
SAMUEL W. TADIO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income & Unincorporated Business :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1971 and 1972.

State of New York  
County of Albany

Bruce Batchelor , 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 31st day of May , 1977, she served the within  
Notice of Determination by (certified) mail upon Samuel W. Tadio

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Samuel W. Tadio  
4815 Genesee Street  
Cheektowaga, New York 14225

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~~  
~~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

31st day of May , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SAMUEL W. TADIO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income & Unincorporated:Business :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1971 and 1972.

State of New York  
County of Albany

Bruce Batchelor , 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 31st day of May , 1977, she served the within  
Notice of Determination by (certified) mail upon John F. Papsidero, Esq.

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: John F. Papsidero, Esq.  
4229 Genesee Street  
Buffalo, New York 14225

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

31st day of May , 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

May 31, 1977

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

Mr. Samuel W. Tadio  
4815 Genesee Street  
Cheektowaga, New York 14225

Dear Mr. Tadio:

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

Please take further notice that pursuant to  
Section(s) **690 & 722** 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,

**Paul B. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
of	:	
SAMUEL W. TADIO	:	DETERMINATION
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 Years 1971 and 1972.	:	

---

Petitioner, Samuel W. Tadio, 4815 Genesee Street, Cheektowaga, New York 14225, filed a petition 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 years 1971 and 1972. (File No. 00608)

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, State Office Building, Buffalo, New York, on June 8, 1976 at 10:45 a.m. Petitioner appeared by John F. Papsidero, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Richard M. Kaufman, Esq., of counsel).

ISSUES

I. Whether the receipt of \$7,000.00 and \$10,499.00 was income to the petitioner in 1971.

II. Whether the expenditures of \$933.01 in 1971 and \$866.16 in 1972 on home utilities were proper deductions to personal income and unincorporated business income.

III. Whether receipt of \$9,879.24 in 1972 was personal income and subject to unincorporated business tax.

FINDINGS OF FACT

1. On January 27, 1975, pursuant to an audit, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Samuel W. Tadio, as follows:

	<u>1971</u>		<u>1972</u>	
<u>Adjustments:</u>	<u>Personal</u>	<u>U.B.T.</u>	<u>Personal</u>	<u>U.B.T.</u>
Long Term Capital Loss	121.00	-0-	-0-	-0-
Personal Utilities	933.01	933.01	866.16	866.16
Additional Wages	7,000.00	-0-	-0-	-0-
Bonus	10,499.00	-0-	-0-	-0-
Unreported Receipts	-0-	-0-	9,879.24	9,879.24
Legal Expense	-0-	-0-	250.00	250.00
Travel and Entertainment	-0-	-0-	398.00	398.00
Additional Allowance for Taxpayer's Services	-0-	(186.40)	-0-	(2,278.28)
Taxable Income Previously Reported	<u>30,491.00</u>	<u>7,907.00</u>	<u>24,423.00</u>	<u>1,204.00</u>
Corrected Taxable Income	<u>49,044.01</u>	<u>8,653.61</u>	<u>35,816.40</u>	<u>10,319.12</u>
Tax	5,426.16	475.95	3,682.46	567.55
Statutory Credit	12.50	-0-	-0-	-0-
Surcharge	-0-	-0-	92.06	-0-
Tax Due	<u>5,413.66</u>	<u>475.95</u>	<u>3,774.52</u>	<u>567.55</u>
Tax Previously Reported	<u>2,816.24</u>	<u>434.89</u>	<u>2,028.70</u>	<u>-0-</u>
Additional Tax Due	<u>2,597.42</u>	<u>41.06</u>	<u>1,745.82</u>	<u>567.55</u>
Penalty Assessed			\$247.58	

Accordingly, it issued a Notice of Deficiency in the amount of \$5,949.90.

2. Petitioner, Samuel W. Tadio, was the president and sole stockholder of a corporation engaged in the sale of mobile homes, known as Sky Harbor Sales, Inc., located at 4815 Genesee Street, Cheektowaga, New York. He also owned and rented one hundred lots for mobile homes and did business as Sky Harbor Mobile Homes. Separate account books were kept on these enterprises. He filed unincorporated business tax returns in 1971 and 1972.

3. In 1971, petitioner, Samuel W. Tadio, withdrew \$7,000.00 from the corporation Sky Harbor Sales, Inc. and took it as a personal loan, as indicated in the two sets of books he kept.

4. In 1971, Sky Harbor Sales, Inc. bought property at 5165 Genesee Street, Cheektowaga, New York for \$18,500.00. In addition to a cash commitment of \$1,702.05, a tax debit of \$1,201.05 and a mortgage of \$16,500.00, a mobile home valued at \$10,499.00 was given to the seller. Petitioner, Samuel W. Tadio's personal indebtedness to this corporation was reduced by \$10,499.00 upon the corporate books.

5. In 1971, petitioner, Samuel W. Tadio, deducted \$933.01 from his personal income for utility costs incurred at his residence located in front of his rental lots. He also deducted this

amount from his business income. In 1972, the deduction of \$866.16 was likewise taken on personal income and on his business income.

6. In April of 1972, petitioner, Samuel W. Tadio, transferred his one hundred rental units to his mother at book value, and she thereafter received rents. Rents from January 1, 1972 to April 1, 1972 amounted to \$9,879.24.

7. Petitioner, Samuel W. Tadio, did not contest the following adjustments:

In 1971	Long term capital loss	\$121.00
In 1972	Legal expenses	250.00
In 1972	Travel and entertainment	398.00

8. Petitioner, Samuel W. Tadio, was negligent in the omission on his tax return for the year 1971 of the receipt of monies and property totalling \$17,499.00, and in 1972 the receipt of \$9,879.24.

#### CONCLUSIONS OF LAW

A. That the receipt of \$7,000.00 and \$10,499.00 in 1971 and \$9,879.24 in 1972 was taxable personal income to petitioner, Samuel W. Tadio, according to the meaning and intent of section 612 of the Tax Law.

B. That the payment of \$933.01 in 1971 and \$866.16 in 1972 for home utilities were improper deductions from personal income of petitioner, Samuel W. Tadio, according to the meaning and

intent of section 612 of the Tax Law, and improper deductions from his unincorporated business income according to the meaning and intent of section 706 of the Tax Law.

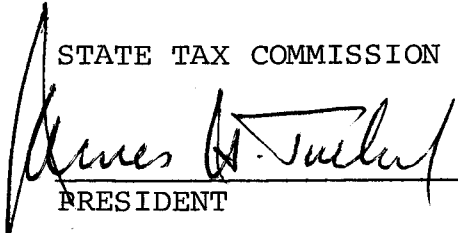
C. That the receipt of \$9,879.24 from the lot rentals in 1972 constituted unincorporated business gross income of petitioner, Samuel W. Tadio, in accordance with the meaning and intent of section 705 of the Tax Law. The income derived from the operation of his trailer park was not exempt under section 703(e) of the Tax Law.

D. That petitioner, Samuel W. Tadio, was negligent in the submission of his tax returns for the years 1971 and 1972 and subject to a 5% penalty pursuant to section 685(b) of the Tax Law.

E. That the petition of Samuel W. Tadio is denied and the Notice of Deficiency issued January 27, 1975 is sustained.

DATED: Albany, New York  
May 31, 1977

STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER



STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SAMUEL W. TADIO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal INcome & Unincorporated Business :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the Year(s) ~~1971 and 1972~~ :  
1971 and 1972.

State of New York  
County of Albany

Violet Walker, 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 14th day of June, 1977, she served the within  
Notice of Determination by (certified) mail upon John F. Papsidero, Esq.

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: John F. Papsidero, Esq.  
19 Louisa Parkway  
North Tonawanda, NY

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

14th day of June, 1977.

Violet Walker

Janet Mack

**FORMAL HEARING**

TA-26 (4-76) 25M

**STATE OF NEW YORK**

**Department of Taxation and Finance**

**TAX APPEALS BUREAU**

**STATE CAMPUS**

**ALBANY, N. Y. 12227**



**MOVED NOT FORM AVAILABLE**

**John F. Papsidero, Esq.**

**4229 Genesee Street**

**Buffalo, New York 14225**

*John F. Papsidero*

*Lois  
New York  
N.Y.  
14225*

