

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of

William P. & Frances B. Keating :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income Tax :
under Article 22 of the Tax Law
for the Year 1968. :

State of New York
County of Albany

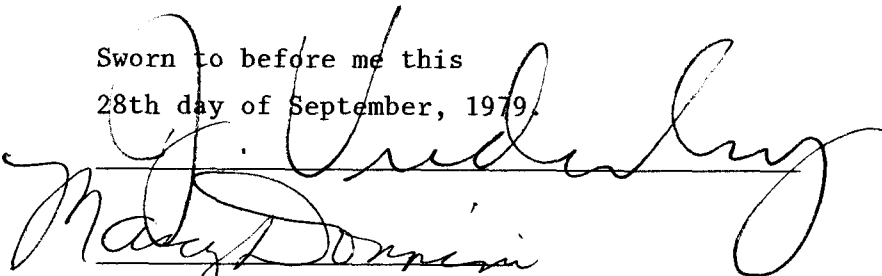

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1979, he served the within notice of Decision by certified mail upon William P. & Frances B. Keating, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

William P. & Frances B. Keating
9 Tanglewyde Ave.
Bronxville, NY 10708

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
28th day of September, 1979.

STATE OF NEW YORK
STATE TAX COMMISSION

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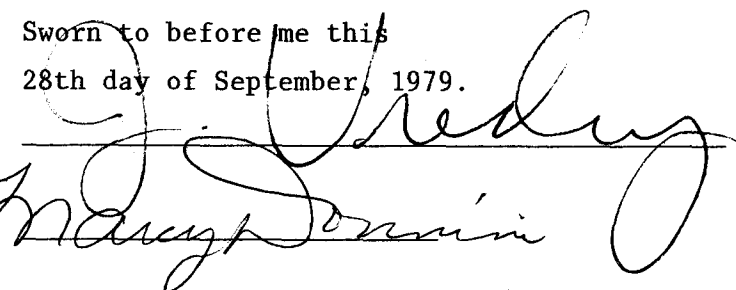
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1979, he served the within notice of Decision by certified mail upon F. S. Cea the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. F. S. Cea
65 Pondfield Rd.
Bronxville, NY 10708

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
28th day of September, 1979.



Notary Public

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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 28, 1979

William P. & Frances B. Keating
9 Tanglewyede Ave.
Bronxville, NY 10708

Dear Mr. & Mrs. Keating:

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,



cc: Petitioner's Representative
F. S. Cea
65 Pondfield Rd.
Bronxville, NY 10708
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

WILLIAM P. KEATING and FRANCIES B. KEATING:

DECISION

for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year :
1968.

Petitioners, William P. and Francies B. Keating, 9 Tanglewede Avenue, Bronxville, New York 10708, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1968 (File No. 13251).

A small claims hearing was held before Harry Heusch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 23, 1978 at 2:45 P.M. Petitioner William P. Keating appeared pro se and for his wife, Francies B. Keating. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether interest expense and miscellaneous deductions were properly claimed by petitioners.

FINDINGS OF FACT

1. Petitioners, William P. and Francies B. Keating, timely filed a joint New York State income tax resident return for 1968, on which interest expense of \$2,074.00 and miscellaneous deductions of \$3,095.52 were claimed.

2. On December 20, 1971, the Income Tax Bureau issued a Statement of Audit Changes disallowing the claimed interest expense and miscellaneous deductions in full, due to petitioners' failure to reply to a letter requesting documentary evidence substantiating the claims. Petitioners had first been requested to provide such evidence by a letter dated July 6, 1970.

3. On April 14, 1972, the Income Tax Bureau issued a Notice of Deficiency and a revised Statement of Audit Changes to petitioners, on which interest expense of \$407.93 was allowed, based on evidence submitted; however, the balance of the interest and the miscellaneous deductions were disallowed in full.

4. Subsequent to the filing of a petition for redetermination of a deficiency, the Income Tax Bureau granted petitioners several opportunities to submit evidence to substantiate the deductions at issue. Petitioners did not submit such evidence.

5. On October 23, 1978, petitioner William P. Keating appeared at a small claims hearing. Said hearing was adjourned and continued in order to afford petitioner the opportunity to submit whatever evidence they desired. A subsequent hearing was scheduled for April 23, 1979, at which petitioners failed to appear.

6. On May 25, 1979, petitioners submitted a number of documents including letters from Mr. Keating's employers stating he was not reimbursed for his expenses, two promissory notes which Mr. Keating gave his mother, and cancelled checks payable to various clubs for dues and entertainment, etc.

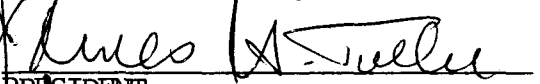

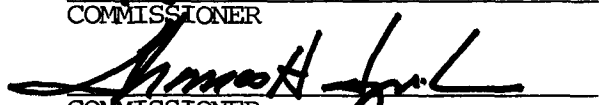
CONCLUSIONS OF LAW

A. That petitioners, William P. and Francies B. Keating, have failed to sustain the burden of proof imposed by section 689(e) of the Tax Law which requires them to establish that the interest expenses or miscellaneous deductions were allowable.

B. That the petition of William P. and Francies B. Keating is denied and the Notice of Deficiency issued on April 14, 1972 for 1968 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

SEP 28 1979

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER