

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Ralph & Penni Zola :

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 1969. :

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 19th day of October, 1979, he served the within notice of Decision by certified mail upon Ralph & Penni Zola, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Ralph & Penni Zola

21 Churchill Rd.

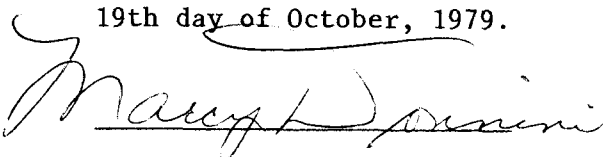
Englewood Cliffs, NJ

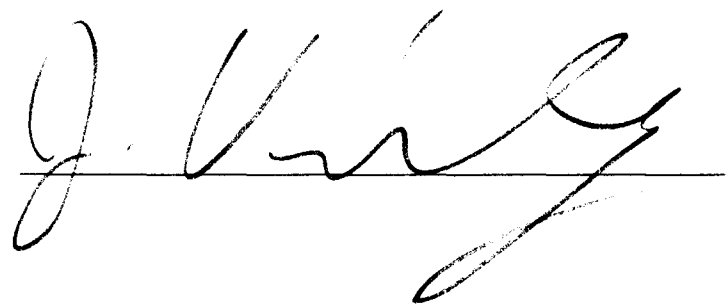
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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

19th day of October, 1979.


Mary L. Dainini



STATE OF NEW YORK
STATE TAX COMMISSION

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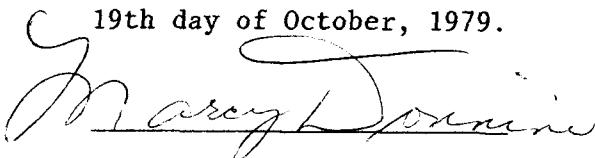
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 19th day of October, 1979, he served the within notice of Decision by certified mail upon Jerome Wohl the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

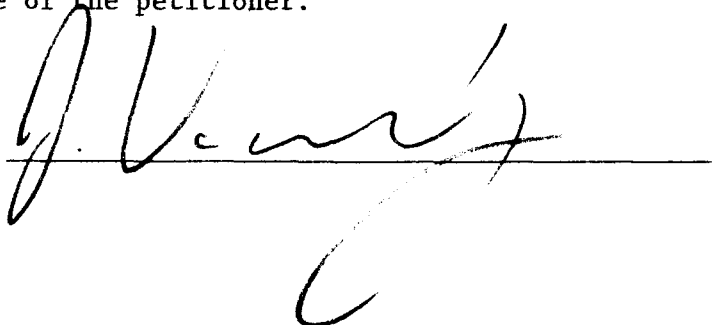
Mr. Jerome Wohl
W. R. Woulf & Co.
1 Lincoln Plaza
New York, NY 10023

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
19th day of October, 1979.


Mary L. Dorman


Jay Vredenburg

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

October 19, 1979

Ralph & Penni Zola
21 Churchill Rd.
Englewood Cliffs, NJ

Dear Mr. & Mrs. Zola:

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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jerome Wohl
W. R. Woulf & Co.
1 Lincoln Plaza
New York, NY 10023
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RALPH ZOLA and PENNI ZOLA	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1969.	:	

Petitioners, Ralph and Penni Zola, 21 Churchill Road, Englewood Cliffs, New Jersey, filed a petition for revision of a determination or for refund of personal income tax under Article 22 of the Tax Law for the year 1969 (File No. 00056).

A formal hearing was held before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 18, 1975 at 1:30 P.M. Petitioner appeared by Jerome Wohl, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether a bonus received by petitioner Ralph Zola was subject to New York State personal income tax.

FINDINGS OF FACT

1. By a Notice of Deficiency dated October 30, 1972, the Income Tax Bureau asserted additional tax due of \$5,734.36 against petitioners, Ralph and Penni Zola. As the result of a conference between petitioners and the Income Tax Bureau, the asserted deficiency was reduced to \$1,032.86.

2. Petitioners were residents of New York for the first five months of 1969, after which time they became residents of New Jersey.

3. During 1969 petitioners' income included \$24,350.00 received by petitioner Ralph Zola as a bonus. The Income Tax Bureau treated 5/12ths of this amount (\$10,145.83) as income which he received while a New York resident.

4. Petitioners submitted an affidavit in which petitioner Ralph Zola asserted that the bonus herein at issue was attributable entirely to work which was performed during July of 1969, and that the bonus was paid in September of 1969. This was the only evidence offered by petitioners.

CONCLUSIONS OF LAW

A. That under section 689(e) of the Tax Law, the burden of proof is on petitioners to show that the bonus was accrued to them after the change in residence. Petitioners have not met this burden of proof.

B. That since claim for a greater deficiency was not asserted by the Income Tax Bureau at or before the hearing, as required by section 689(d) of the Tax Law, only 5/12ths of the bonus may be treated as income earned while a New York resident; accordingly, the Notice of Deficiency is sustained in the reduced amount of \$1,032.86, plus interest.

D. That the petition of Ralph and Penni Zola is denied and the Notice of Deficiency issued on October 30, 1972, as modified at the conference of June 4, 1969, is sustained.

DATED: Albany, New York

OCT 19 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

to..Paul.Coburn.....

Please file.

ZOLA, RALPH & PENNI (returned Moved, left no
address)

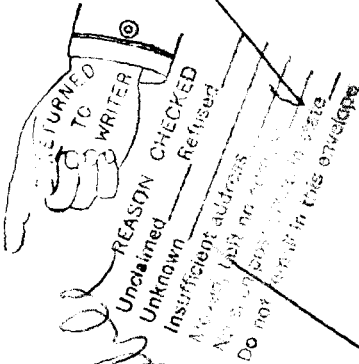
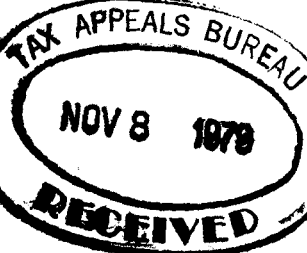
November 14, 1979

M-75 (5/76)

From Robert F. Mulligan

TA-26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227



Jerome Wohl

Jerome Wohl
W. R. Woulf & Co.
1 Lincoln Plaza
New York, NY 10023



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

October 19, 1979

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21 Churchill Rd.
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Albany, New York 12227
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Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jerome Wohl
W. R. Woulf & Co.
1 Lincoln Plaza
New York, NY 10023
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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