

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Nikolaos & Persetoni Bakolas :

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 1973. :

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 16th day of May, 1980, he served the within notice of Decision by certified mail upon Nikolaos & Persetoni Bakolas, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Nikolaos & Persetoni Bakolas
794 Grosvenor Rd.
Rochester, NY 14618

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
16th day of May, 1980.

Joanne Knapp

J. Vredenburg

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

May 16, 1980

Nikolaos & Persetoni Bakolas
794 Grosvenor Rd.
Rochester, NY 14618

Dear Mr. & Mrs. Bakolas:

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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
NIKOLAOS BAKOLAS and PERSETONI BAKOLAS	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1973.	:	

Petitioners, Nikolaos Bakolas and Persetoni Bakolas, 794 Grosvenor Road, Rochester, New York 14618, filed petitions for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1973 (File Nos. 15366 and 15367).

A small claims hearing was held before Carl P. Wright, Hearing Officer, at the offices of the State Tax Commission, One Marine Midland Plaza, Rochester, New York, on July 18, 1979 at 10:45 A.M. Petitioner Nikolaos Bakolas appeared pro se and for his wife, Persetoni Bakolas. The Audit Division appeared by Peter Crotty, Esq. (Kathy L. Sanderson, Esq., of counsel).

ISSUE

Whether petitioners sustained the burden of proof necessary to show that they were entitled to deduct a casualty loss and medical and dental expenses claimed on their New York State income tax resident return for 1973.

FINDINGS OF FACT

1. Petitioners, Nikolaos Bakolas and Persetoni Bakolas, filed a New York State Combined Income Tax Resident Return for 1973, wherein casualty losses of \$10,387.00 and medical expenses of \$1,275.34 were claimed.

2. The Audit Division issued two statements of audit changes on May 24, 1976; the first one against petitioner Nikolaos Bakolas, on the grounds that the medical and dental expenses and casualty loss deductions were not sufficiently documented. Accordingly, the Audit Division increased petitioner Nikolaos Bakolas' taxable income by \$5,460.29, thereby imposing additional personal income tax of \$222.89, plus interest of \$35.22, for a total due of \$258.11. On May 24, 1976, a Notice of Deficiency was issued based on said statement.

3. The second Statement of Audit Changes was against petitioner Persetoni Bakolas, on the same grounds as the first statement. Accordingly, the Audit Division increased petitioner's taxable income by \$6,015.05, thereby imposing additional personal income tax of \$239.02, plus interest of \$37.77, for a total due of \$276.79. A Notice of Deficiency was issued based on said statement on May 24, 1976.

4. Petitioners substantiated \$571.00 of medical expenses to the Audit Division. This amount is smaller than the medical limitation of 3 percent of adjusted gross income.

5. Petitioner Nikolaos Bakolas contended that he was engaged in the hobby of collecting stamps and that the collection consisted of approximately 10,000 stamps, the majority of them from Italy, France and Greece. He also contended that on June 18, 1973, at 12:30 A.M., a theft of the postage stamp collection and miscellaneous property occurred and that none of the items stolen were ever recovered.

6. On the initial police report dated June 18, 1973, the only item reported taken was a stereo tape player valued at \$40.00. On a supplemental police report dated April 5, 1974, the narrative reads as follows: "Victim states that when original burglary report was taken on above date, (18-June-1973), he neglected to tell police that his stamp collection had been taken."

7. Petitioner Nikolaos Bakolas claimed he paid in excess of \$78,000.00 for the stamps in his collection. He submitted a letter dated September 9, 1975 from Andrew J. Mickles, President of Mickles Insurance Agency to the Audit Division. The letter implied that Mr. Mickles reviewed Mr. Bakolas's stamp collection in 1972 and the letter stated, in part, the following:

"I am Mr. Bakolas' insurance broker. My inspection of said stamps were made at his request for insurance purposes.

Upon examining the stamps, which consisted primarily of Greek stamps dating back to 1925, represented in some three volumes, I noted that the stamps were in "mint" condition and uncanceled.

Having seen other collections of this type in my insurance experiences, I recognized that the collection represented a great value. The figure of \$30,000.00 valuation seemed very reasonable to me at the time.

I told Mr. Bakolas, however, that it would be impossible for me to place the insurance with an insurance carrier unless the collection of stamps were properly catalogued. Inasmuch as he had not gotten around to doing this, the matter was left as is, that is, no insurance was placed.

There was no question in my mind that the collection was an excellent one."

8. Petitioner Nikolaos Bakolas stated that it would have cost \$2,200.00 to insure the stamp collection, which his wife was reluctant to spend.

9. On petitioners' income tax return for 1973, wherein they claimed the theft loss deduction, petitioners valued the collection at \$10,450.00. They contended this valuation was based on their attempt not to have problems with the taxing authorities.

10. Petitioner Nikolaos Bakolas was granted an extension of time in which to submit documentary evidence with respect to medical expenses and the cost basis of property claimed in the casualty loss; however, no documentary evidence was submitted.

CONCLUSIONS OF LAW

A. Petitioners, Nikolaos Bakolas and Persetoni Bakolas, have failed to sustain the burden of proof imposed by Section 689(e) of the Tax Law to show that they are entitled to a deduction for medical and dental expense and a casualty loss.

B. That the petition of Nikolaos Bakolas and Persetoni Bakolas is denied and the notices of deficiency issued May 24, 1976 are sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

MAY 16 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER