

STATE OF NEW YORK
STATE TAX COMMISSION

*Renfrow, Marian
Hatt*

*Personal Income
Article 22*

In the Matter of the Petition

of

Marian Hatt Renfrow

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1967

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 January , 1971 , she served the within Notice of Decision (or Determination) by (certified) mail upon Marian Hatt Renfrow (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Marian Q. Hatt Renfrow Elizabeth H. Nordham & Harold J. Treanor, Exec. c/o Cox, Treanor & Shaughnessy Room 407, 12 East 41 Street New York, New York 10017 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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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 January , 1971.

James S. VanAllen

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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12 East 41 Street
New York, New York 10017

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Sworn to before me this

14th day of January , 1971

Joseph S. Van Allen

Martha Funaro

STATE TAX COMMISSION

for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Year 1967

A formal hearing was held before Lawrence A. Newman, Esq., Hearing Officer, in the offices of the State Tax Commission in the City of New York on May 21, 1970. The executor-petitioners appeared and were represented by Cox, Treanor and Shaughnessy, Esq. (Harold J. Treanor, Esq., of counsel). The Income Tax Bureau was represented by Edward H. Best, Esq. (Solomon Sies, of counsel).

1. The executors filed a New York State income tax resident return, form IT-201, on behalf of the deceased for the year 1967. The tax return constituted a refund claim for the overpayment of estimated taxes in the amount of \$2,652.30.

2. Under file numbered 89318367, a notice of partial allowance of \$1,783.09, and partial disallowance of \$869.21, of the refund claim was mailed to the petitioners on September 29, 1969. The amount which was disallowed resulted from a finding by the Income Tax Bureau that the cost of a sea trip was not deductible as a medical expense. The balance of the medical deductions claimed were

less than 3% of the total income, and therefore, no part of the medical deductions was allowed.

3. On the advice of her physician, the decedent, Marion Hatt Renfrow left New York City on January 26, 1967 on a sea voyage around the world particularly in areas of warm climate, and returned to New York City on May 2, 1967. She was accompanied by a companion, who was her regular maid at home. She married Mr. Renfrow in December, 1967 and died in February, 1968. On the decedent's income tax return for 1967, the Executors included the cost of the sea voyage of the decedent and her maid in the amount of \$10,395 which included passage for the maid in the amount of \$2,895.

4. On September 28, 1968, decedent's physician stated in a letter that the decedent was in her mid-80's; that her health was "extremely fragile and precarious"; that she suffered from arterial hypertension, acute diverticulitis of the colon, generalized arteriosclerosis, cardiac hypertrophy, calcification of abdominal aorta, coronary occlusion, hepatic hypertrophy, generalized osteoarthritis, scoliosis of lumbar spine, generalized sinusitis and fractures due to falling. The companionship of the maid was advised to watch over the deceased at all times, to see that she took prescribed medicines and that she was otherwise cared for. The physician had himself died early in the year 1970, prior to this formal hearing.

5. The petitioners have failed to prove that the expenses incurred were for the diagnosis, cure, mitigation, treatment, or prevention of disease or for the purpose of alleviating a specific chronic ailment, as contrasted with the generalized discomforts and debilities associated with advanced age. Expenses incurred for the general improvement of health are not deductible as medical care.

6. The petitioners have failed to prove that the deceased required medical services of the nature and extent usually attributable to a registered nurse, as contrasted with a more general need for companionship and personal assistance.

DECISION

A. The expenses incurred for the sea voyage were personal in nature and not a deductible medical expense.

B. The partial denial of the refund claim is sustained and the petition is denied.

DATED: Albany, New York
January 13, 1970

STATE TAX COMMISSION

Norman Gallivan

COMMISSIONER

Bruce Marley

COMMISSIONER

Milton Korman

COMMISSIONER