

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

THEODORE J. SPECTOR

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

Rae Zimmerman, 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 16th day of December, 1971, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Theodore J.  
Spector

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Theodore J. Spector  
102 Harrington Road  
Syracuse, New York 13224

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

16th day of December, 1971.

Linda Wilson

Rae Zimmerman

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

THEODORE J. SPECTOR

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

Rae Zimmerman, 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 16th day of December, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Herbert H. Heim, Esq.

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Herbert H. Heim, Esq.  
315 Seitz Building  
Syracuse, New York 13202

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

16th day of December, 1971.

Linda Wilson

Rae Zimmerman

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
THEODORE J. SPECTOR : DECISION  
for a Redetermination of a Deficiency :  
or for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for the :  
Year 1967. :

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Theodore J. Spector filed a petition for redetermination of a deficiency in income tax for the year 1967 through his attorney Herbert H. Heim, Esq. The case was submitted for decision on information in the file.

ISSUE

Was \$2,500.00 paid by the taxpayer pursuant to a separation agreement deductible by him in 1967 as periodic payments of alimony?

FINDINGS OF FACT

1. The petitioner filed a petition for a redetermination of a deficiency in personal income tax for the year 1967.
2. The deficiency determination under File No. 84295992 disallowed an alimony deduction of \$2,500.00 for the year 1967 as not qualifying as a periodic payment.
3. The separation agreement dated and executed on August 21, 1967 provided, in paragraph 9, that Theodore J. Spector should pay \$2,000.00 to Nina B. Spector, and \$1,000.00 to Nina B. Spector and Richard J. Sardino "upon the execution of this agreement". The taxpayer contended that \$2,500.00 paid in 1967, pursuant to these provisions, was deductible as alimony.

CONCLUSIONS OF LAW

- A. The payment of \$2,500.00 to Nina B. Spector in 1967 constituted a lump sum payment and was not deductible as alimony.

B. The petition is denied and the determination of the deficiency is sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York  
*December 16, 1971*

STATE TAX COMMISSION

*Norman Gallman*  
\_\_\_\_\_  
COMMISSIONER

*Bruce Masley*  
\_\_\_\_\_  
COMMISSIONER

*Milton Kren*  
\_\_\_\_\_  
COMMISSIONER