



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

STATE TAX COMMISSION
NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227
AREA CODE 518
457-2655, 6, 7

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
July 11, 1972

Mr. Milton J. Goldberg
830 Westminster Avenue
Hillside, New Jersey

Dear Mr. Goldberg:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to section(s)
690 of the Tax Law any proceeding
in court to review an adverse decision must be commenced
within 4 months after the date of this notice.

Any inquiries concerning the computation of tax due or
refund allowed in accordance with this decision or
concerning any other matter relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright
Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
MILTON J. GOLDBERG : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1964. :

Milton J. Goldberg filed a petition under section 689 of the Tax Law for the redetermination of a deficiency dated February 24, 1969, in personal income tax under Article 22 of the Tax Law for the year 1964. A hearing was held on October 14, 1971, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The Income Tax Bureau was represented by Edward H. Best, Esq., (Francis X. Boylan, Esq., of Counsel). The record of such hearing has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner should be allowed a casualty loss arising out of an alleged theft of \$25,000.00 in cash, bonds and jewelry.

FINDINGS OF FACT

1. Mr. Goldberg is a resident of Hillside, New Jersey. He filed a nonresident return for 1964. His wife had no earnings in 1964 and filed no return.
2. On June 12, 1964, at or about 11:00 P.M. on Westminister Avenue, Hillside, New Jersey, while returning from a post office, Mrs. Maude Goldberg, the wife of petitioner, was mugged and her purse was snatched. A police report submitted in evidence corroborates this by observations of the scene and statements of witnesses to the surrounding circumstances.

3. The contents of the stolen purse was cash amounting to \$25,000.00 in \$100.00 and \$20.00 bills in two plastic bags inside of a detached pocket from a man's trousers and fastened with a safety pin; also two \$100.00 Series E bonds, and jewelry.

4. The money had come from about \$12,000.00 in Series E bonds and \$13,000.00 in cash which had been in Mrs. Goldberg's possession in the home. Mrs. Goldberg had cashed the bonds. This was the accumulated savings from Mr. Goldberg's salary. The bonds were in the name of one of their children and Mrs. Goldberg together. They had been intended to be not for Mrs. Goldberg but for the children to whom they had never been delivered. The occasion for these sums being in Mrs. Goldberg's possession had arisen out of marital discord between the Goldbergs.

5. Several months after the mugging, petitioner was approached by a woman who claimed, in the presence of police, to know the culprits. She obviously knew of the amount of cash claimed to have been in the purse despite the fact that no publicity had been given to that fact. Later the police made an arrest, and a conviction was secured on June 22, 1965. A subsequent police report includes the statement of an accomplice that he was present when the culprits returned to their home and that he had counted the \$100.00 bills which alone had amounted to \$19,000.00.

6. On September 29, 1964, the police of New Jersey, through the police of Robeson County, North Carolina, showed probable cause for and were issued a warrant for the search of certain premises in Maxton Township, North Carolina, to find the \$25,000.00 in cash, and the other items amounting to \$400.00 in value, stolen from Mrs. Goldberg. The premises named belonged to the family of one of the suspected culprits. The items were not found.

7. The testimony of Mr. Goldberg as to this had all the earmarks of veracity and was highly persuasive. Mrs. Goldberg died in 1968 and of course was unavailable as a witness.

8. The deficiency in issue amounts to \$1,006.91 plus \$233.07 interest, for a total of \$1,239.98.

CONCLUSIONS OF LAW

The petitioner has adequately proven his loss of the amount claimed. The petition is granted. The deficiency is found in error in its entirety and is cancelled.

DATED: Albany, New York

July 11, 1972

STATE TAX COMMISSION

Norman Gallivan

COMMISSIONER

Bruce Nealey

COMMISSIONER

Milton Koehn

COMMISSIONER

MEMORANDUM

TO: Mr. Louis Etlinger, Chief, Review Unit
Att: Floyd Worden
Income Tax Bureau
Room 104, Building #8


DATE: 8/21/72

FROM: Hearing Unit
Room 214A, Building #9

RE: Milton J. Goldberg
830 Westminster Avenue
Hillside, New Jersey

SOCIAL SECURITY NO.

Please advise as to the last known address for the above named taxpayer.


Hearing Officer

Taxpayer's last known address is:

1971 Return shows:

*830 Westminster Ave
Hillside, N. J.*

AD 52 (8-71) 50M

STATE OF NEW YORK
Department of Taxation and Finance
STATE STAMPU
ALBANY, N. Y. 12227

Handwritten: All set up - c

Postmark: ALBANY N.Y. JUN 14 1968

Unpaid
Address
Insurance
No. Each
No. Each
Dr. 254

Milton J. Goldberg

830 Westminster Avenue

Hillside, New Jersey

CERTIFIED
No. 592609
MAIL