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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
ROBERT & CLAIRE HAMMER
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) 1965

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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 23rd day of February , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon Robert & Claire Hammer

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Robert & Claire Hammer
181 Hanson Lane
New Rochelle, New York

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
23rd day of February , 19 72
 Cal Zimmerman

 Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT & CLAIRE HAMMER

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) 1965

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 23rd day of February , 19 72, she served the within Notice of Decision (or Determination) by (certified) mail upon David I. Schachne

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

wrapper addressed as follows: David I. Schachne
2328 East 66th Street
Brooklyn, New York 11234

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

23rd day of February , 1972

Rol Zimmerman

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

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

ADDRESS YOUR REPLY TO

Dated: Albany, New York

February 23, 1972

**Robert & Claire Hammer
181 Hanson Lane
New Rochelle, New York**

Dear Madam & Sir:

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,

Lawrence A. Newman
Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ROBERT & CLAIRE HAMMER : DECISION
for Redetermination of Deficiencies :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Year 1965. :

Robert Hammer and Claire Hammer, his wife, filed a petition for redetermination of deficiencies or for refund of personal income taxes under Article 22 of the Tax Law for the year 1965. A formal hearing was held before Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission, in the City of New York, on January 19, 1971. Mrs. Claire Hammer appeared and testified.

ISSUE

A deduction was claimed for travel and subsistence expenses relating to business negotiations which were abandoned because of civil war.

FINDINGS OF FACT

1. The petitioners, Robert and Claire Hammer, timely filed a New York State combined income tax return (IT-208) for the year 1965.
2. On March 25, 1968, the Income Tax Bureau issued notices of deficiency against Robert Hammer and against Claire Hammer, under file numbered 38407908, in the amounts of \$61.14, and \$25.05, respectively, plus interest.
3. The petitioners jointly filed a timely petition for redetermination of the deficiencies.

4. Prior to, and during the year 1965, Mrs. Claire Hammer was an officer-stockholder of a corporate operator of a golf course in Purchase, New York, known as the Purchase Country Club. Mrs. Hammer sold her interest in the year 1966, and went into another country club venture in Connecticut.

5. During the year 1965, Mrs. Claire Hammer, accompanied by her son and her attorney, made two trips to the Dominican Republic. The purpose of the trips was to negotiate with the national government for a long-term lease in favor of Mrs. Hammer and her son, Jack, to develop and operate a specified golf course at a resort location. At the time of negotiations, the golf course was owned by the national government. The negotiations resulted in a preliminary draft of an agreement.

6. A specified date was set when the principals were to meet in the Dominican Republic for the purpose of signing the final agreement. Immediately prior to the meeting date, the Dominican Republic was engulfed in a civil war. One of the incidents of the insurrection, was the encampment of American military personnel on the grounds of the golf course.

7. The negotiations for the lease of the golf course were suspended and never resumed.

8. The petitioners claimed a deduction for the travel and subsistence expenses of Mrs. Hammer, her son, Jack, and her attorney totalling \$1,396.18.

9. A reduction in taxable income was credited by the Income Tax Bureau of \$331.89, representing a New York State tax refund which was erroneously included in income on the tax return.

10. The petitioners had entered into a specific transaction for profit, the activities were more than investigatory, and the project was abandoned during the taxable year in issue. The deduction claimed for travel and subsistence expenses relating to this

project were correctly deducted by the petitioners on their combined income tax return.

DECISION

A. The amount of \$1,396.18, labelled "travelling and legal expenses" was correctly claimed as an allowable deduction by the petitioners.

B. The New York taxable income was correctly reduced in the amount of \$331.89 by the Income Tax Bureau, based on the petitioners' incorrect inclusion in income of a New York income tax refund.

C. The petition is granted and the deficiencies in issue are cancelled.

D. The Income Tax Bureau shall recompute the tax liability of the petitioners giving consideration to item B above, and shall grant an appropriate refund or credit for any resulting reduction in tax.

DATED: Albany, New York
February 23, 1972

STATE TAX COMMISSION

Norman Bellrose
COMMISSIONER

Bruce Hawley
COMMISSIONER

Milton Korman
COMMISSIONER