

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BARRY RIMER & CAROLE RIMER

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 18th day of January , 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Barry Rimer & Carole Rimer (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Barry & Carole Rimer  
160 Caterson Terrace  
Hartsdale, 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

18th day of January , 1972.

Linda Wilson

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**January 18, 1972**

**Barry & Carole Riner  
160 Caterson Terrace  
Hartsdale, New York**

**Dear Mr. & Mrs. Riner**

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

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IN THE MATTER OF THE PETITION

OF

BARRY RIMER AND CAROLE RIMER

FOR A REDETERMINATION OF DEFICIENCIES  
OR FOR REFUND OF PERSONAL INCOME TAXES  
UNDER ARTICLE 22 OF THE TAX LAW FOR  
THE YEAR 1965  
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DECISION

The above-named taxpayers filed a joint petition for a redetermination of deficiencies issued against them individually or for refunds of personal income taxes under Article 22 of the Tax Law for the year 1965. A hearing was held in connection therewith at the Office of the State Tax Commission at 80 Centre Street, New York, New York, on the 21st day of February, 1968 before Solomon Sies, Hearing Officer, of the Department of Taxation and Finance, at which hearing the taxpayers appeared in person.

The matter having been duly considered, the State Tax Commission hereby finds:

(1) Barry and Carole Rimer filed a joint Federal income tax return for the year 1965 in which they reported adjusted gross income in the amount of \$13,938.30 and itemized deductions in the amount of \$3,269.72. They filed a New York State combined income tax return for the year 1965 (separate returns on one form) on Form IT-208. The husband reported income in the amount of \$7,284.84 and the wife \$6,653.46. Both of the taxpayers are employed as teachers of the Board of Education in the City of New York. The husband reported itemized deductions in the amount of \$1,800.00 and the wife reported itemized deductions in the amount of \$1,403.41.

(2) On June 26, 1967, the Department of Taxation and Finance issued a Statement of Audit Changes against the taxpayers, Barry Rimer and Carole Rimer disallowing the following deductions: (a) \$244.80 for medicine and drugs as unsubstantiated; (b) traveling expenses in the amount of \$1,539.86 on the ground that same was deemed to be personal and did not constitute expenses for education on the part of the taxpayer, Barry Rimer; (c) disallowed educational expenses in the amount of \$287.84 on the ground that same was incurred in meeting minimum requirements. The total disallowance amounted to \$2,072.50 which was divided equally between the husband and wife. Additional personal income tax was imposed against the husband Barry Rimer, in the amount of \$54.30 including interest and against the wife in the amount of \$51.79 including interest.

(3) The taxpayer, Barry Rimer, submitted a letter from the Bureau of Foreign Languages of the Board of Education of the City of New York to the effect that said taxpayer was a teacher of Spanish at the Creston Junior High School, Bronx, New York, during the school year 1965; that the nature of this teaching assignment requires the maintenance of language skills as well as up-to-date information about the peoples whose languages are being taught; that an essential activity for this purpose is travel abroad, and the Bureau of Foreign Languages along with other state and national professional language associations have urged foreign language teachers to make trips abroad regularly; that frequent foreign travel is necessary for teachers of foreign languages, particularly for the development of good performance in the classroom and for the upgrading of language courses in the schools.

(4) The taxpayers submitted a statement from the Amalgamated Drug Plan, indicating that in 1965 they spent a total of \$212.60 for vitamins and prescriptions in that pharmacy. However, \$122.90 included in said amount of \$212.60 represented the cost paid for vitamins. The taxpayers submitted no proof that said vitamins were prescribed by any physician in connection with any treatment received by them.

(5) The educational expenses claimed in the amount of \$287.84 represented courses in Portuguese and Italian taken by the taxpayer, Barry Rimer. No evidence was presented to warrant a finding that such courses were necessary or required to maintain taxpayer's position as a teacher of Spanish.

(6) The taxpayer, Barry Rimer, has failed to establish that he did in fact expend or incur the amount of \$1,539.86. The aforementioned taxpayer was entitled to a deduction therefor of only \$1,000.

(7) Section 1.162-5 of the Federal Income Tax Regulations for education provides in pertinent part as follows:

"§ 1.162-5. EXPENSES FOR EDUCATION.--(a) Expenditures made by a taxpayer for his education are deductible if they are for education (including research activities) undertaken primarily for the purpose of:

"(1) Maintaining or improving skills required by the taxpayer in his employment or other trade or business \* \* \*."

Based upon the foregoing facts, the State Tax Commission hereby

DECIDES:

(A) The expenses incurred by the taxpayer, Barry Rimer, in the amount of \$1,000 for the trip to Spain was incurred primarily for the purpose of maintaining and improving his skills in his employment as a teacher of Spanish. Accordingly the deduction

claimed be and the same is hereby granted only to the extent of \$1,000.

(B) The courses taken by the taxpayer, Barry Rimer, did not constitute a proper deduction for educational expenses. The deduction therefor was properly denied.

(C) The taxpayer was only entitled to a deduction in the amount of \$89.70 for medicine and drugs.

(D) Except as herein indicated above, the petition of the taxpayers, Barry Rimer and Carole Rimer, is hereby denied.

DATED: Albany, New York

STATE TAX COMMISSION

*January 18, 1972*

*Norman Gallus*

PRESIDENT

*Bruce Manley*

COMMISSIONER

*Milton Koenig*

COMMISSIONER

**BUREAU OF LAW  
MEMORANDUM**

**TO**

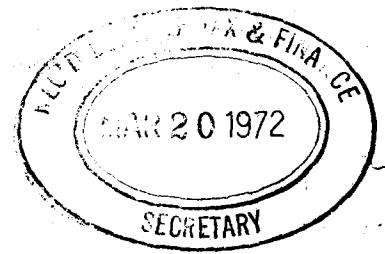
**FROM :**

**Louis Etlinger, Income Tax Bureau**

**SUBJECT:**

**James Scott**

**Barry and Carole Rimer  
State Tax Commission decision dated  
January 10, 1972**



**Attached is a March 13, 1972 letter from Barry Rimer, stating that the entire file may now be closed out, together with a \$19.66 check.**

**In view of the foregoing, the Income Tax Bureau and Hearing Unit files are herewith returned. This matter will be reflected on our records as a closed case.**

**Associate Attorney**

**JH:lk**

**Enc.**

**March 17, 1972**

**cc: Edward, Elmer, Esq.**

February 8, 1972

Mr. Barry Rimer  
160 Caterson Terrace  
Hartsdale, New York 10530


Re: Decision dated: January 18, 1972  
Article 22 Year 1965

Dear Mr. Rimer:

This acknowledges your letter regarding the recent decision of the State Tax Commission.

Your letter has been referred to the Litigation Unit of our Bureau of Law for their attention and response to your inquiry.

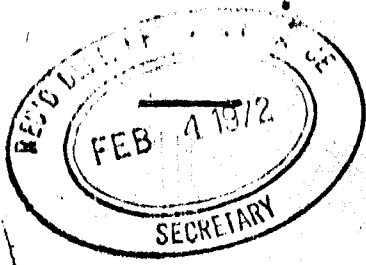
Very truly yours,



Lawrence A. Newman  
Hearing Officer

cc: Law Bureau

LAN/lw



160 Caterson Terrace  
Hartsdale N.Y. 10530  
February 2, 1972

Lawrence A. Newman  
Hearing Officer  
Department of Taxation and Finance  
Building 9, Room 214A  
State Campus, Albany N.Y. 12227

Dear Sir:

Please send me a computation of tax due in accordance with your decision on file 38362842 on taxable year 1965. On February 28, 1968 I sent a personal money order 8005022 of the First National City Bank for \$36.37 to the Department of Taxation and Finance. This was not mentioned in your decision.

Very truly yours,  
Barry Rimer