

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MORTON & RHEA WINDMAN

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) 1964

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 24th day of August , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Morton & Rhea

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

wrapper addressed as follows: Morton & Rhea Windman
163 East 178th Street
Bronx, New York 10453

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

24th day of August , 1972.

Lynn 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

August 24, 1972

**Morton & Rheas Windman
163 East 178th Street
Bronx, New York 10453**

Dear Mr. & Mrs. Windman:

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

Please take further notice that pursuant to **section 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 relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,



Paul B. Coburn

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
MORTON WINDMAN and RHEA WINDMAN : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1964. :

Petitioners, Morton Windman and Rhea Windman, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1964. (File No. 19025895). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on June 20, 1972, at 10:15 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Albert J. Rossi, Esq., of Counsel).

ISSUE

Did petitioners, Morton Windman and Rhea Windman, substantiate gambling losses for the year 1964 in the sum of \$6,828.10?

FINDINGS OF FACT

1. Petitioners, Morton Windman and Rhea Windman, filed a New York State income tax resident return for the year 1964. They claimed on said return that their gambling losses for said year exceeded the sum of \$6,828.10 won on twin double wagers.

2. On January 22, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Morton Windman and Rhea Windman, disallowing deductions for gambling losses in the sum of \$6,828.10 for the year 1964 upon the grounds that they failed to substantiate said deductions and accordingly issued a Notice of

Deficiency in the sum of \$796.26.

3. Petitioner, Morton Windman, was a frequent visitor of Roosevelt Raceway, Yonkers Raceway, Aqueduct Race Track and Belmont Race Track during the year 1964.

4. During the year 1964, petitioner, Morton Windman, won two twin double wagers at Roosevelt Raceway. His winnings from these wagers totaled \$6,828.10. Roosevelt Raceway filed forms IT-2102.1 reporting these wins to the New York State Income Tax Bureau.

5. Petitioner, Morton Windman, did not maintain any records of his gambling wins and losses at racetracks during the year 1964. He did not save his losing pari-mutuel tickets. He submitted no evidence of any other winning wagers other than the aforesaid twin doubles. It is inconceivable that these were the only winning wagers that he made during the year 1964.

6. Petitioner, Morton Windman, cashed 63 checks payable to "cash" totaling \$10,840.00 during the year 1964.

CONCLUSIONS OF LAW

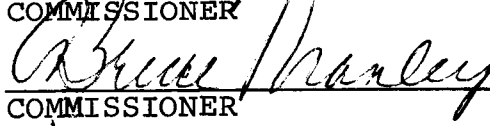
A. That petitioners, Morton Windman and Rhea Windman, failed to substantiate deductions for gambling losses in the year 1964 in the sum of \$6,828.10 since they did not submit documentary or other satisfactory evidence to support their claim, and accordingly said deductions were properly disallowed. Checks made out to cash by petitioner, Morton Windman, did not constitute proof of the alleged gambling losses.

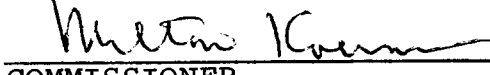
B. That the petition of Morton Windman and Rhea Windman is denied and the Notice of Deficiency issued January 22, 1968, is sustained.

DATED: Albany, New York
August 24, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER