

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RODERICK V. and HELEN B. BROWN :

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

LYNN WILSON , 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 , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon RODERICK V. and
HELEN B. BROWN (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Roderick V. and Helen B. Brown
P.O. Box 24305
Oakland, California 94623
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 , 1973.

Paul H. Jones

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 23, 1973

Roderick V. and Helen B. Brown
P.O. Box 24305
Oakland, California 94623

Dear Mr. and Mrs. Brown:

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,

L. Robert Leisner

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RODERICK V. and HELEN B. BROWN	:	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.	:	

Roderick V. and Helen B. Brown petitioned for a redetermination of deficiency in personal income taxes under Article 22 of the Tax Law for the year 1967.

The case was submitted for decision on the material previously contained in the file and additional material forwarded at the time of the submission of the case. The Income Tax Bureau was represented by Saul Heckelman, Esq., Counsel.

ISSUE

Was the taxpayers' casualty fire loss substantiated?

FINDINGS OF FACT

1. Petitioners, Roderick V. and Helen B. Brown, timely filed New York State income tax returns for the year 1967.
2. A Notice of Determination of deficiency in personal income taxes for the year 1967 was issued on January 25, 1971, against Roderick V. and Helen B. Brown under File No. 75170880.
3. The taxpayers petitioned for redetermination of the deficiency.

4. The taxpayers' apartment at 1398 Third Avenue, New York, New York and its furniture, furnishings and contents, and all of the taxpayers' personal belongings were totally destroyed in a fire on January 22, 1967.

5. The Income Tax Bureau issued a deficiency notice disallowing the taxpayers' claimed deduction of casualty loss. The notice states: "You have not adequately substantiated your casualty loss". The notice also reduced the claimed life insurance premium deduction and that adjustment is not in dispute.

6. In addition to the materials previously submitted the taxpayers have now submitted a photograph, a news account, a news photo and also an affidavit and a floor plan of their apartment.

7. The apartment was a two-story, three-bedroom townhouse apartment with foyer, living room, a terrace, a dining room, a sewing room and there were baths on each level.

8. The taxpayers have extensive lists of the items destroyed by fire and the claimed depreciated value of the items. The list of furniture, furnishings, contents and personal belongings is detailed room by room with the cost opposite each item. The costs are reasonable.

9. In addition to the petitioners' itemized schedule of the items destroyed with the cost, the additional items such as the photographs, the floor plan and location of the apartment and the income tax returns indicate that the taxpayers' income and situation in life warranted the ownership of such items of value.

10. The total of the taxpayers' loss has been reduced by a depreciation of 30% and by \$5,000.00 insurance recovery and the \$100.00 statutory exclusion.

CONCLUSIONS OF LAW

A. The taxpayers actually suffered the loss by fire and their loss is substantiated by the evidence with respect to household goods and wearing apparel. The amount of the loss is not limited to the price which could be realized by a sale but the actual loss to the taxpayers. The loss cannot exceed the cost of the property. Actual value generally means what the property is worth to the taxpayers less depreciation. Edmund W. Cornelius 56 TC 976.

B. The taxpayers' casualty deduction is allowed.

C. The taxpayers' deduction for life insurance is reduced to \$300.00.

D. The deficiency or refund shall be recomputed together with statutory interest.

DATED: Albany, New York
February 23, 1973

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Abner Masler
COMMISSIONER

Milton Kremer
COMMISSIONER