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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANK and KATHRYN E. SULAK

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) 1970.

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 20th day of July , 1973 , she served the within Notice of Decision (or Determination) by (certified) mail upon FRANK and KATHRYN E. SULAK (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Frank and Kathryn E. Sulak  
20415 Tufts Circle  
Walnut, California 91789  
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

20th day of July , 1973

Martha J. Harris

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  
July 20, 1973

Frank and Kathryn E. Sulak  
20415 Tufts Circle  
Walnut, California 91789

Dear Mr. and Mrs. Sulak:

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

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In the Matter of the Petition	:	
of	:	
FRANK and KATHRYN E. SULAK	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1970.	:	

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Petitioners, Frank and Kathryn E. Sulak, petitioned for a redetermination of deficiency in personal income tax under Article 22 of the Tax Law for the year 1970.

(The case was submitted for decision on information contained in the file.)

ISSUE

May the taxpayer deduct moving expenses from his New York resident income for a move from a New York residence to an out-of-state residence?

FINDINGS OF FACT

1. Petitioners, Frank and Kathryn E. Sulak, timely filed New York State personal income tax returns for the year 1970. Taxpayers deducted their expenses for moving to California from their New York income.

2. A Notice of Determination of deficiencies in personal income taxes for the year 1970 was issued on June 26, 1972, against the taxpayers under File No. 0-69116470. The Income Tax Bureau contended moving expenses were applicable to the taxpayers' period of nonresidence and could not be deducted from their New York income.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. The taxpayers contend that the provisions of the "Letter of Counsel, Department of Taxation and Finance, November 1, 1965" (CCH pp.18-345.40), that allow deduction of moving expenses from New York income for intrastate moves but not for interstate moves, violate the constitutional right to travel from one state to another as discussed in Shapiro v. Thompson, 394 U.S. 618 (1969).

CONCLUSIONS OF LAW

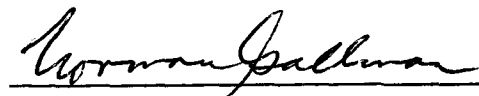
A. We confirm the "Letter of Counsel, Department of Taxation and Finance, November 1, 1965, (CCH pp.18-345.40). The portion of itemized deductions applicable to taxpayers' period of nonresidence is disallowed as not properly deductible in computing taxable income for taxpayers' period of residence.

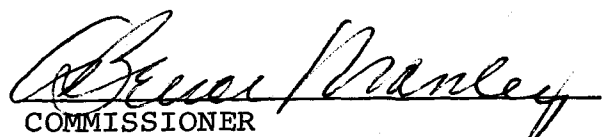
B. The petition is denied and the determination of the deficiency in income tax is sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York  
July 20, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER