

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MATTHEW C. & LILLIAN E. DANIELS

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) 1966.

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 6th day of March, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Mr. & Mrs.

Matthew C. Daniels (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

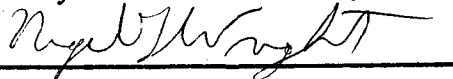
Mr. & Mrs. Matthew C. Daniels  
228 East Colvin Street  
Syracuse, New York 13205

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

6th day of March, 1974.







457-2655, 6, 7

Mario A. Procaccino

MILTON KOERNER

**STATE TAX COMMISSION  
HEARING UNIT**

EDWARD ROOK  
SECRETARY TO  
COMMISSION

**ADDRESS YOUR REPLY TO**

**DATED:** Albany, New York  
**March 6, 1974**

Mr. & Mrs. Matthew C. Daniels  
228 East Colvin Street  
Syracuse, New York 13205

**Dear Mr. & Mrs. Daniels:**

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** from 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 relative hereto may be addressed to the undersigned. These will be referred to the proper party for reply.

Very truly yours,

Edward Hook

**EDWARD ROOK**

## HEBINGGOEDER

**Secretary, State Tax Commission**

Enc.

cc: Petitioner's Representative  
Law Bureau

## STATE TAX COMMISSION

In the Matter of the Petition :  
:  
of :  
:  
MATTHEW C. & LILLIAN E. DANIELS :  
:  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for :  
the Year 1966. :  
:

DECISION

Petitioners, Matthew C. and Lillian E. Daniels, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1966.

A formal hearing was held at the offices of the State Tax Commission, Syracuse, New York, on June 30, 1972, before L. Robert Leisner, Hearing Officer. Matthew C. Daniels appeared personally, and the Income Tax Bureau was represented by Saul Heckelman, Esq., (Alexander Weiss, Esq., of Counsel).

Did the taxpayers suffer a theft loss of \$8,325.00 in 1966?

1. Petitioners, Matthew C. and Lillian E. Daniels, timely filed New York State income tax returns for the year 1966.

2. A Notice of Determination of deficiencies in personal income tax for the year 1966 was issued on March 31, 1969, against the taxpayers under File No. 56032910.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. The taxpayers claimed a theft loss of \$8,325.00.

5. The taxpayers gave considerable testimony concerning the earning capacity of the taxpayers, their style of living, their use of cash and nonuse of banks. There was also considerable testimony about the Federal adjustments and whether the Federal disposition was on the merits. The taxpayer testified that he had informed the police of the theft, but that the police later stated to him that there was no record or report of the theft. These incidents allegedly occurred in Buffalo in the ghetto area in the time preceding the riots and civil unrest in that city which resulted in the appointment of a special commission by the Governor. The Federal disposition was not on the merits of the issue. The taxpayer subsequently moved to Syracuse to be away from the situation. From all the evidence, the taxpayer does not appear to have borne the burden of proof of clear and convincing evidence as to the large amount of cash claimed to have been stolen.

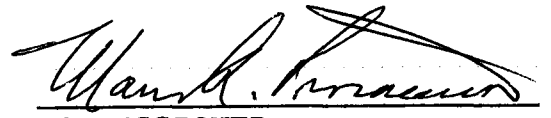
#### CONCLUSIONS OF LAW

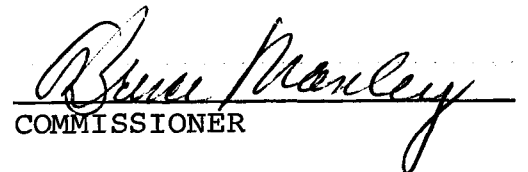
A. The disallowance of the theft loss of \$8,325.00 is sustained.

B. The deficiency in income tax is sustained. Pursuant to the Tax Law, interest shall be added to amount of tax due until paid.

DATED: Albany, New York  
March 6, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER