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STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

MICHAEL T. MURPHY :

DECISION

for Redetermination of a Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Year 1971. :

Petitioner, Michael T. Murphy, filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1971. (File No. 1-84077150).

A hearing was scheduled before the Honorable Edward Rook, at the offices of the State Tax Commission on July 8, 1974. On June 27, 1974, petitioner executed a written waiver of formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUES

I. Whether taxpayer may deduct as moving expenses \$2,500.00 attributed to brokerage fee in acquiring a new residence in Oklahoma, taxpayer having moved from New York to Oklahoma.

II. Whether taxpayer may deduct Oklahoma taxes paid from New York adjusted gross income.

FINDINGS OF FACT

1. Taxpayer filed a joint resident New York personal income tax return for the calendar year 1971, on which they claimed a \$2,500.00 moving expense deduction consisting of the brokerage fee paid on the purchase of a residence in Oklahoma, the state in which they took up residence; they also deducted certain Oklahoma taxes.

2. On September 24, 1973, the Income Tax Bureau issued a Notice of Deficiency and a Statement of Audit Changes disallowing the moving expense deduction as being incurred after the change of residence and disallowing Oklahoma taxes paid. The taxpayer duly filed a petition for redetermination of deficiency.

3. Petitioner, Michael T. Murphy, resided at 1 Beau Lane, Huntington Station, New York, from January 1, 1970 to November 30, 1970. Petitioner moved to Tulsa, Oklahoma, on December 1, 1970.

4. On petitioner's 1970 New York State resident income tax return he claimed itemized deductions of \$154.00 for Oklahoma state and local income tax and \$77.00 for auto registration tax for his New York adjusted gross income.

5. Petitioner, Michael T. Murphy, also deducted from his New York State income \$2,500.00 for moving expenses incurred in the move from New York State to Oklahoma. The deduction was based on a \$4,620.00 brokerage fee that he claimed was paid by him in the acquisition of the residence in Oklahoma. Petitioner did not submit any proof as to the date of payment of the brokerage fee.

CONCLUSIONS OF LAW

A. That no substantial documentary evidence has been furnished to verify petitioner's payment of the brokerage fee incurred in the change of residence from New York State to Oklahoma.

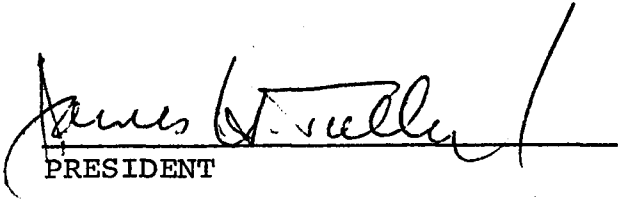
B. That since petitioner has failed to substantiate that payment of moving expenses occurred prior to the date of change of residence from New York State to Oklahoma, that the deduction must be disallowed.

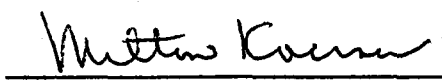
C. That the taxes paid by petitioner to the State of Oklahoma for state and local income taxes and auto registration taxes were not deductible from New York State income. Section 615(c)(1) of the Tax Law.

D. That the petition is denied and the Notice of Determination issued September 24, 1973, is sustained.

DATED: Albany, New York
December 30, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER