

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE J. and RITA B. ALEXANDER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(*)~~ 22 of the
Tax Law for the Year ~~(*)~~ ~~1973~~ ~~(*)~~ 1973.:

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 4th day of March, 1977, ~~he~~ served the within
Notice of Decision by (certified) mail upon George J. & Rita B.
Alexander (~~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. George J. Alexander
46 Lynwood Road
Scarsdale, New York 10583

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative~~
~~of the~~ 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

4th day of March, 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

March 4, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. George J. Alexander
46 Lynwood Road
Scarsdale, New York 10583

Dear Mr. & Mrs. Alexander:

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

Please take further notice that pursuant to
Section(2) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia
Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Taxing Bureau's Representative~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
GEORGE J. and RITA B. ALEXANDER	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1973.	:	

Petitioners, George J. and Rita B. Alexander, residing at 46 Lynwood Road, Scarsdale, New York 10583, have filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1973 (File No. 3-46100430).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on July 13, 1976, at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner, Rita B. Alexander. The Income Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq. of counsel).

ISSUES

I. Whether the petitioners sustained a casualty loss during the year 1973.

II. Whether petitioners are entitled to an additional allowance for medical expenses in connection with documentary evidence submitted.

FINDINGS OF FACT

1. The petitioners, George J. and Rita B. Alexander, filed a 1973 resident New York State combined income tax return on which the petitioners claimed employee business expenses and itemized deductions including a net casualty loss of \$1,150.00.

2. Upon audit, the Income Tax Bureau issued a Statement of Audit Changes against the petitioners showing the disallowance of the entire casualty loss, and the disallowance or adjustment of amounts claimed for employee business expenses and various itemized deductions on the basis of the documentary evidence submitted. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency on May 19, 1975 showing a deficiency in the amount of \$166.46 plus interest.

3. Petitioners agree with all of the adjustments on the Statement of Audit Changes except that they contend the disallowed casualty loss should be allowed and the disallowed medical expense should be reduced by \$57.00 based upon additional documentary evidence submitted.

4. During the summer of 1973, the petitioners, George J. and Rita B. Alexander, spent a weekend at "The Hotel Villa S. Domenico" in Florence, Italy. At that time, they discovered that certain personal property was missing, which they reported to the hotel management as stolen.

5. The loss or theft of the property was not reported to the police or any other law enforcement agency. Petitioners felt that the items were stolen by a hotel employee and since they were in a foreign country, it would serve no purpose to report it.

6. Petitioner, George J. Alexander, submitted a list of the items that were stolen, showing their date of purchase and their cost. In addition, a variety of bills and receipts for these items were submitted.

7. Petitioners were not covered or reimbursed for the personal property in question by insurance; although the loss was reported to their insurance agent.

8. Two checks, totalling \$57.00 were submitted for dental expenses which were not originally claimed on their return.

CONCLUSIONS OF LAW

A. That, although the theft loss was not reported to a law enforcement agency, the report to the hotel management and

its security personnel was sufficient to establish that the missing personal property had been stolen.

B. That a theft loss occurred during 1973 within the meaning and intent of section 165(c)(3) of the Internal Revenue Code.

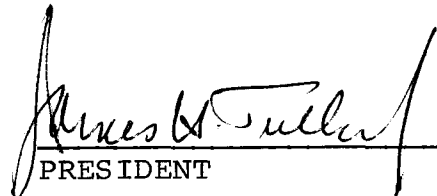
C. That the petition of George J. and Rita B. Alexander is granted to the extent that the theft loss is allowed in the amount of \$789.00, minus the \$100.00 limitation.

D. That the petition of George J. and Rita B. Alexander is granted to the extent that the medical and dental expense of \$1,238.44 allowed on the deficiency be increased by \$57.00.

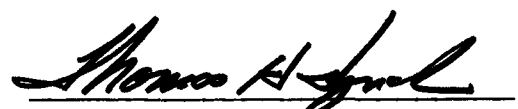
E. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued May 19, 1975; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
March 4, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER