

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT M. and HELEN HAMMER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article(s) 22 of the  
Tax Law for the Year ~~(xxxxxx)~~ ~~Period(s)~~  
1972

State of New York  
County of Albany

Marsina Donnini, 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 27 day of July, 1977, she served the within Notice of Decision by (certified) mail upon Robert M. and Helen Hammer ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Robert & Helen Hammer  
102 Serpentine Lane  
Searington, New York 11507 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  
27 day of July, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

July 27, 1977

**Robert & Helen Hammer**  
**102 Serpentine Lane**  
**Searington, New York 11507**

**Dear Mr. & Mrs. Hammer:**

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

**Joseph Chyrywaty**  
**Hearing Examiner**

cc: ~~XXXXXXXXXXXXXXXXXXXX~~  
Petitioner's Representative  
Taxing Bureau's Representative



ISSUE

Whether the petitioners have substantiated a casualty loss claimed on their New York State income tax resident return for the year 1972.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioners' personal residence was burglarized on November 20, 1971, at which time a variety of tangible personal properties were stolen.
2. Petitioners reported the burglary, along with a schedule of items stolen, to the local police department and to their insurance company.
3. Petitioners filed a claim against their insurance company for \$5,014.98. Since they expected to recover the full amount of their loss from the insurance company, the casualty loss was not deducted on their 1971 tax returns.
4. The insurance claim was settled on June 13, 1972 for \$3,960.66, and the difference of \$1,054.32, less \$100.00, was claimed on their New York State income tax return for the year 1972.
5. Petitioners submitted an inventory of all items that were stolen, which indicated the date purchased and their

original cost. Also submitted were a large assortment of bills, receipts, invoices, and other similar documentation.

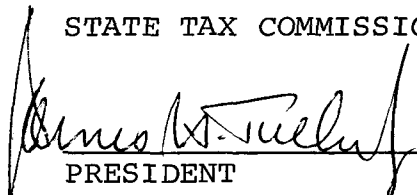
6. That the petitioners, Robert M. and Helen Hammer, have substantiated a theft loss in the gross amount of \$4,521.58, minus the insurance recovery of \$3,960.66 and the \$100.00 limitation. Accordingly, a casualty loss in the net amount of \$460.92 is deductible in accordance with the meaning and intent of section 165 of the Internal Revenue Code and Article 22 of the Tax Law.

7. That the petition of Robert M. and Helen Hammer is granted to the extent that the casualty loss is allowed in the net amount of \$460.92.

8. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued June 30, 1975; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York  
July 27, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER