

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
MURRAY SOLOMON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(a)~~ 22 of the :
Tax Law for the Year ~~(a) or Period (x)~~ 1968:

State of New York
County of Albany

John Huhn , 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 13 day of September , 1978, ~~he~~ served the within
notice of decision by (certified) mail upon Murray Solomon

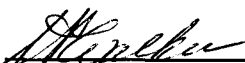
~~(representative of the)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Murray Solomon
32 Lynam Road
Stamford, Connecticut 06903

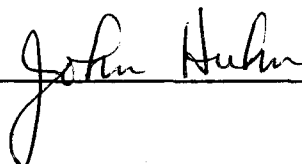
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

13 day of September , 1978.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
MURRAY SOLOMON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of **Personal Income** :
Taxes under Article ~~20~~ 22 of the :
Tax Law for the Year ~~1967~~ 1968. :

State of New York
County of Albany

John Huhn, 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 13 day of September, 1978, he served the within
notice of decision by (certified) mail upon Joseph A. Maida, CPA

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Joseph A. Maida, CPA
80 Prospect Street
Stamford, Connecticut 06902

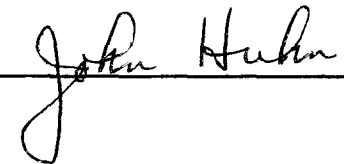
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

13 day of September, 1978.







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

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

September 13, 1978

**Murray Solomon
32 Lynam Road
Stamford, Connecticut 06903**

Dear Mr. Solomon:

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 ~~(8)~~ **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,


MICHAEL ALEXANDER
Supervising Tax Hearing
Officer

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
MURRAY SOLOMON : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under Article 22 :
of the Tax Law for the Year 1968. :

Petitioner, Murray Solomon, 32 Lynam Road, Stamford, Connecticut 06903, 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 1968 (File No. 00147).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the Offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 18, 1977 at 10:45 AM. Petitioner appeared by Joseph A. Maida, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq., of counsel).

ISSUE

Whether petitioner (a tenant stockholder) is entitled to a casualty loss deduction for storm damage sustained in 1968.

FINDINGS OF FACT

1. On December 18, 1971 as the result of an audit, the Income Tax Bureau issued a Statement of Audit Changes against

petitioner, Murray Solomon, in which a casualty loss for 1968 was disallowed for lack of substantiation. Accordingly, the Bureau issued a Notice of Deficiency to petitioner in the amount of \$4,994.08, plus interest, for a total due of \$6,095.22.

2. Petitioner, Murray Solomon, with his wife owned stock in the West Hampton House Corporation and had two apartments therein. He occupied one apartment and either his son or his daughter occupied the other apartment during the summer months. As the result of a storm on or about November 12, 1968, the property sustained catastrophic damage. The beach, pool and septic system had to be replaced. Pilings had to be replaced and strengthened. Outside electric lines, lights and wiring systems also had to be replaced. The cooperative made all repairs within two years, as required. The storm did not damage either aforementioned apartment. Petitioner voluntarily replaced some planking beneath the house for which he was not compensated by the cooperative. The appraised value of petitioner's apartment (37A) before the storm of November 12, 1968 was \$30,000.00. This apartment was sold in 1975 for \$47,000.00. Apartment 5B had been appraised at \$21,000.00 and was sold for \$16,800.00.

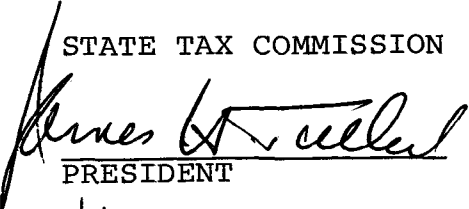
3. Petitioner, Murray Solomon, offered no documentary or other substantial evidence that he personally sustained a casualty loss in 1968.

CONCLUSIONS OF LAW

A. That petitioner, Murray Solomon, has not sustained the burden of proof required to establish a deductible casualty loss in 1968, pursuant to section 165 of the Internal Revenue Code; therefore, the petition of Murray Solomon is denied and the Notice of Deficiency issued December 18, 1971 is sustained.

DATED: Albany, New York
September 13, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
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