

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM L. (DECEASED) AND ILA C. BEARDS

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income

Taxes under Article ~~(2)~~ 22 of the
Tax Law for the Year ~~(XXXX Period(s))~~
1972

AFFIDAVIT OF MAILING

State of New York
County of Albany

John Huhn , 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 24th day of January , 1979 , ~~she~~ served the within
Notice of Decision by (certified) mail upon William L. (deceased)
and Ila C. Beards ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: William L. Beards (deceased)
c/o Ila C. Beards
77 Livingston Road
Scarsdale, NY 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)~~
~~XXXXXX~~ 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

24th day of January , 19 79

Maureen J. Papineau

John Huhn



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

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

January 24, 1979

William L. Beards (deceased)
c/o Ila C. Beards
77 Livingston Road
Scarsdale, NY 10583


Dear Ms. Beards:

Please take notice of the **Notice of 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 **four 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 Chyrywat
Hearing Examiner

cc: ~~Retitioner's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
WILLIAM L. (DECEASED) and IIA C. BEARDS
for Redetermination of a Deficiency or
for Refund of Personal Income Tax under
Article 22 of the Tax Law for the Year
1972.

DECISION

Petitioners, William L. (deceased) and Ila C. Beards,
77 Livingston Road, Scarsdale, New York 10583, 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 1972
(File No. 11141).

A small claims hearing was held before William Valcarcel,
Hearing Officer, at the offices of the State Tax Commission,
Two World Trade Center, New York, New York, on October 19, 1977
at 2:45 P.M. Petitioner Ila C. Beards appeared pro se. The
Income Tax Bureau appeared by Peter Crotty, Esq. (Abraham
Schwartz, Esq., of counsel).

ISSUES

I. Whether the depreciation of certain dental equipment
was an allowable deduction from petitioners' income.

II. Whether petitioners are entitled to a bad debt deduction, in accordance with section 166 of the Internal Revenue Code.

FINDINGS OF FACT

1. Petitioners, William L. (deceased) and Ila C. Beards, filed a joint New York State income tax resident return for 1972, wherein they claimed a deduction for depreciation on dental equipment.

2. On November 24, 1975, the Income Tax Bureau issued a Notice of Deficiency against petitioners, William L. and Ila C. Beards, whereby the depreciation deduction was disallowed and a modification was made in accordance with section 615(c)(1) of the Tax Law.

3. Petitioner William L. Beards died on December 9, 1975.

4. William L. and Ila C. Beards paid for dental equipment purchased by their son, Dr. Ashley H. Beards, who, in return, gave them interest-bearing notes. Subsequently, the dental equipment became obsolete. Due to their son's financial difficulties in attempting to establish a dental practice, petitioners forgave the loans.

5. Petitioners took possession of the obsolete dental equipment and deducted the depreciation expense that would ordinarily have been deducted on their son's return.

6. Petitioner Ila C. Beards contended that if the depreciation deduction was not allowable as such, that it would

be allowable as a bad debt deduction and that she should also be allowed a deduction for Federal income taxes paid during 1972.

CONCLUSIONS OF LAW

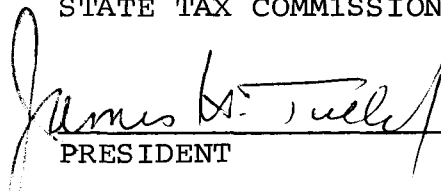
A. That Article 22 of the Tax Law does not provide for a deduction of Federal income taxes, nor does it provide for a deduction of depreciation on tangible property which is not attributed to a business or occupation carried on by petitioners.

B. That petitioner Ila C. Beards failed to sustain the burden of proof required to establish that she and her husband (now deceased) were entitled to a bad debt deduction, within the meaning and intent of section 166 of the Internal Revenue Code and Article 22 of the Tax Law.

C. That the petition of William L. Beards (deceased) and Ila C. Beards is denied and the Notice of Deficiency issued November 24, 1975 in the sum of \$93.93 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York
January 24, 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER