

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Phillip & Muriel Feigelson :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of the Tax Law

for the Year 1972. :

State of New York

County of Albany

Jay Vredenburg, 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 31st day of August, 1979, he served the within notice of Decision by certified mail upon Phillip & Muriel Feigelson, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Phillip & Muriel Feigelson

265 Tenaflly Rd.

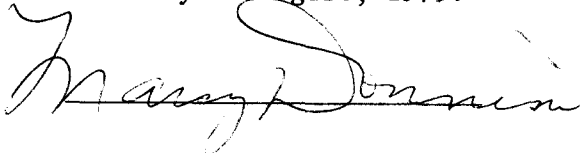
Tenaflly, NJ 07670

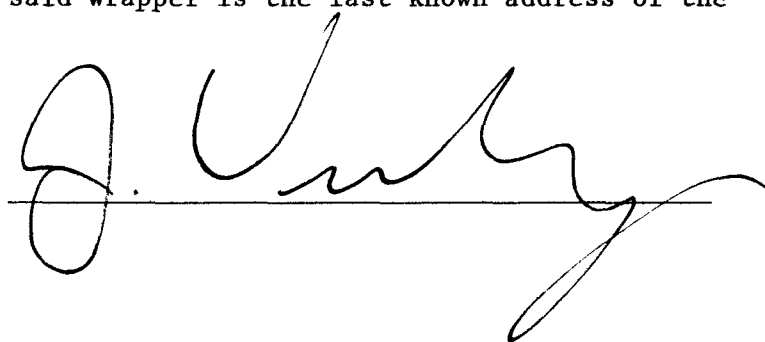
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this

31st day of August, 1979.

  
Mary Donnan

  
Jay Vredenburg



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

STATE TAX COMMISSION

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

JOHN J. SOLLECITO  
DIRECTOR

Telephone: (518) 457-1723

August 31, 1979

Phillip & Muriel Feigelson  
265 Tenaflly Rd.  
Tenaflly, NJ 07670

Dear Mr. & Mrs. Feigelson:

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,

A handwritten signature in cursive script, appearing to read "John J. Sollecito".

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
PHILIP FEIGELSON and MURIEL F. FEIGELSON : DECISION  
for Redetermination of a Deficiency or for :  
Refund of Personal Income Tax under Article :  
22 of the Tax Law for the Year 1972. :  
:

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Petitioners, Philip Feigelson and Muriel F. Feigelson, 265 Tenaflly Road, Tenaflly, New Jersey 07670, 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. 14066).

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 May 16, 1978 at 1:15 P.M. Petitioner appeared pro se and for his wife, petitioner Muriel F. Feigelson. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether petitioners properly allocated their wage income on the basis of days worked within and without New York State.

FINDINGS OF FACT

1. Petitioners, Philip Feigelson and Muriel Feigelson, timely filed a New York State combined income tax nonresident return for 1972, whereby they both allocated their salary income on the basis of days worked within and without New York State. Petitioners claimed that of a total of 223 working days, 163 days were worked in New York State.

2. On January 26, 1976, the Income Tax Bureau issued a Notice of Deficiency against petitioners, based on the following:

- (a) Salary income of both petitioners was held fully taxable without the benefit of an allocation.
- (b) The standard deduction was allowed in lieu of the New York itemized deductions claimed. This item was not an issue, since the Income Tax Bureau and petitioners agreed to accept the results of an audit conducted by the Internal Revenue Service for 1972.

3. Petitioners submitted a "Report of Individual Income Tax Audit Changes" (Form 1902-E), issued by the Internal Revenue Service on January 16, 1974.

Said report revealed the following adjustments:

<u>ITEM</u>	<u>ADJUSTMENT</u>
State Tax Refund	\$1,600.00
Contributions	1,307.00
Miscellaneous	400.00
Casualty Loss	570.00
R.E. Taxes	232.40
Mortgage Interest	<u>124.84</u>
TOTAL	<u>\$4,234.24</u>

After eliminating the State tax refund adjustment (in accordance with section 612(c)(7) of the Tax Law), a net adjustment of \$2,634.24 remained for New York State tax purposes.

4. Petitioner Philip Feigelson was a professor of biochemistry at the College of Physicians and Surgeons of Columbia University, who had both research and academic duties. He was frequently required by his employer to participate in scientific conferences and to work at laboratories located not only outside the State of New York, but outside the United States. A schedule was submitted based on a diary maintained by petitioner Philip Feigelson. It revealed that he worked sixty days outside New York State during 1972, none of which were worked at home in New Jersey.

5. Petitioner Muriel Feigelson was an assistant professor of biochemistry at the College of Physicians and Surgeons of Columbia University. She was assigned to the Department of Obstetrics and Gynecology at Roosevelt Hospital as director of its Basic Research Laboratory. She was also named as the principal investigator in research grants awarded by the National Institute of Child Health and Human Development. Her duties included directing and participating in research projects, as well as participating in scientific conferences and symposia located outside New York State and outside the United States. A schedule was submitted based on a diary maintained by petitioner. It revealed that she worked sixty days outside New York State during 1972, none of which were days worked at home in New Jersey.

CONCLUSIONS OF LAW

A. That petitioners, Philip and Muriel Feigelson, properly allocated their wage income for 1972 on the basis of days worked within and without New York State, in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

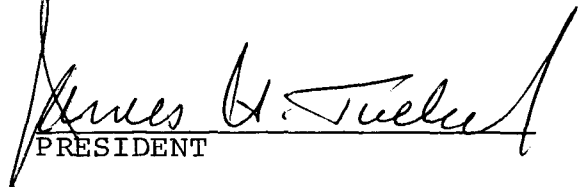
B. That the petition of Philip and Muriel Feigelson, is granted to the extent that the allocation of wage income is accepted as shown on their income tax return, and that the New York itemized deductions (as shown on their income tax return) are also accepted, but are reduced by the unreported Federal audit changes of \$2,634.24, in accordance with Finding of Fact "3".

C. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued January 26, 1976; and that, except as so granted, the petition is in all other respects denied.

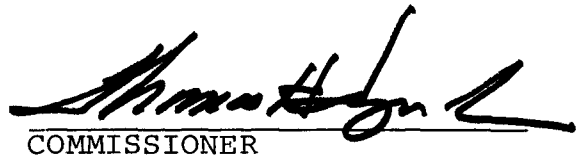
DATED: Albany, New York

AUG 31 1979

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER