

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ABDELKADER KALLASH and AZZIZA KALLASH

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(s) ~~1972~~ 1973 :

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 6th day of April , 19 79, she served the within

Notice of Decision by (certified) mail upon Abdelkader Kallash  
and Azziza Kallash (~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Abdelkader Kallash and Azziza Kallash  
2185 Flatbush Avenue  
Brooklyn, New York 11234

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

6th day of April , 19 79

*Marilyn 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

**April 6, 1979**

**Abdelkader Kallash and Azziza Kallash  
2135 Flatbush Avenue  
Brooklyn, New York 11234**

**Dear Mr. and Mrs. Kallash:**

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 Chyrywat  
Hearing Examiner**

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	:	
ABDELKADER KALLASH	:	DECISION
and	:	
AZZIZA KALLASH	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1973.	:	

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Petitioners, Abdelkader Kallash and Azziza Kallash, 2185 Flatbush Avenue, Brooklyn, New York 11234, 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. 12149).

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 November 18, 1977 at 2:45 P.M. Petitioner appeared pro se and for his wife, petitioner Azziza Kallash. The Income Tax Bureau appeared by Peter Crotty, Esq. (William Fox Esq., of counsel).

#### ISSUE

Whether petitioners properly claimed an exemption (a rental loss), deductions for contributions and child care expenses on their 1973 New York State income tax return.

FINDINGS OF FACT

1. Petitioners, Abdelkader Kallash and Azziza Kallash, filed a New York State combined income tax resident return for 1973.

2. As the result of an audit of petitioners' 1973 New York State income tax return, the Income Tax Bureau issued a Statement of Audit Changes on November 12, 1974, making the following adjustments:

	<u>CLAIMED</u>	<u>ALLOWED</u>	<u>ADJUSTMENT</u>
Rental Loss	\$ 651.00	\$ 32.00	\$ 619.00
Contributions	600.00	200.00	400.00
Child Care	2,400.00	-0-	2,400.00
Exemption-(Ratiba)	650.00	-0-	650.00
Remaining Itemized Deductions	1,988.00	-0-	1,988.00
Less: Standard Deduction	<u>-0-</u>	<u>2,000.00</u>	<u>(2,000.00)</u>
Total Adjustment			<u>\$4,057.00</u>

Accordingly, a Notice of Deficiency was issued on May 19, 1975 asserting additional tax of \$146.52, plus interest.

3. Petitioner Abdelkader Kallash brought his mother-in-law, Ratiba Shamar, to the United States on a visitor's visa from Syria on October 13, 1972, with assurances to the immigration authorities that he would provide full support during her visit. Petitioner's mother-in-law did not become a resident or citizen of the United States during her visit and returned to Syria at the end of 1973.

4. Petitioner submitted a statement apparently signed before a notary public by an individual, certifying that the individual was paid \$750.00 for child care services by petitioner during 1973.

In addition, an unsigned and undated statement from another individual stating that petitioners paid the individual \$700.00 in child care services was submitted. Both petitioner Abdelkader Kallash and his wife, Azziza Kallash, were gainfully employed during 1973 and supported six dependent children.

5. Petitioners did not submit documentary evidence which would support charitable contributions or a rental loss greater in amount than that allowed by the Income Tax Bureau in the Notice of Deficiency.

CONCLUSIONS OF LAW

A. That petitioners, Abdelkader Kallash and Azziza Kallash, have failed to sustain the burden of proof imposed by section 689(e) of the Tax Law, and necessary to show that they are entitled to a rental loss or a deduction for charitable contributions greater than the amounts allowed by the Income Tax Bureau for said items on the Notice of Deficiency issued May 19, 1975.


B. That petitioners are not allowed an exemption for Ratiba Shamar, as she did not qualify as a dependent within the meaning and intent of section 152(b)(3) of the Internal Revenue Code.

C. That petitioners are entitled to a deduction of \$750.00 for child care expenses in accordance with section 214 of the Internal Revenue Code; therefore, the Income Tax Bureau is directed to accordingly modify the Notice of Deficiency issued May 19, 1975.

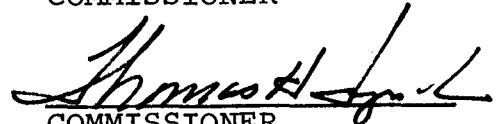
D. That the petition of Abdelkader Kallash and Azziza Kallash is granted to the extent provided in Conclusion of Law "C", above, but is in all other respects denied; that the Notice of Deficiency issued May 19, 1975 as modified is sustained, together with such interest as may be lawfully owing.

DATED: Albany, New York  
April 6, 1979

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER