

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Addie & Jannie Bell Johnson :
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 1974. :

AFFIDAVIT OF MAILING

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 3rd day of October, 1980, he served the within notice of Decision by certified mail upon Addie & Jannie Bell Johnson, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Addie & Jannie Bell Johnson
66 Troy Rd.
East Greenbush, NY 12061

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
3rd day of October, 1980.

Scottie Bank

Jay Vredenburg

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

October 3, 1980

Addie & Jannie Bell Johnson
66 Troy Rd.
East Greenbush, NY 12061

Dear Mr. & Mrs. Johnson:

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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ADDIE JOHNSON and JANNIE BELL JOHNSON : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Years :
1974. :

Petitioners, Addie Johnson and Jannie Bell Johnson, 66 Troy Road, East Greenbush, New York 12061, 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 1974 (File No. 20015).

A small claims hearing was held before Carl P. Wright, Hearing Officer, at the offices of the State Tax Commission, State Campus, Building 9, Albany, New York, on January 21, 1980 at 9:00 A.M. Petitioner Addie Johnson appeared pro se. The Audit Division appeared by Ralph J. Vecchio, Esq. (Harry Kadish, Esq., of counsel).

ISSUES

I. Whether petitioners were entitled to claim exemptions for petitioner Addie Johnson's father, mother and nephew.

II. Whether petitioners properly claimed a rental loss and a deduction for contributions on their 1974 New York State income tax return.

FINDINGS OF FACT

1. Petitioners, Addie Johnson and Jannie Bell Johnson, filed a New York State Combined Income Tax Resident Return for 1974.

2. The Income Tax Bureau issued a Statement of Audit Changes against petitioners on January 29, 1976, making the following adjustments:

	<u>Claimed</u>	<u>Allowed</u>	<u>Adjustment</u>
Exemptions	\$3,250.00	\$1,300.00	\$1,950.00
Contributions	810.00	210.00	600.00
Rental Loss	<u>2,873.79</u>	<u>-0-</u>	<u>2,873.79</u>
TOTAL ADJUSTMENT			<u>\$5,423.79</u>

Accordingly, a Notice of Deficiency was issued on July 25, 1977 by the Audit Division asserting additional tax of \$381.88 plus interest of \$73.90.

3. Petitioners' contended that they contributed \$900.00 each for the support of petitioner Addie Johnson's mother and father who resided in Sharron, Mississippi. They contended that they contributed \$680.00 for the support of Michael McDaniel who lived with his mother in Memphis, Tennessee. Petitioners further contended that said amounts constituted one hundred percent support for each individual named above.

4. Petitioners submitted documentary substantiation to show they contributed \$919.00 to a charitable organization.

5. Petitioners did not submit documentary evidence which would support a rental loss greater in amount than allowed by the Audit Division.

CONCLUSIONS OF LAW

A. That petitioners, Addie Johnson and Jannie Bell Johnson, failed to sustain the burden of proof required to show that they were entitled to the exemptions claimed for Lee Pharris, Zuddie Johnson and Michael McDaniel, in accordance with sections 151(e) and 152 of the Internal Revenue Code and Article 22 of the Tax Law.

B. That petitioners did not submit documentary or any satisfactory evidence to support a rental loss greater than the amounts allowed by the Audit Division for said item on the Notice of Deficiency issued July 25, 1977.

C. That petitioners are entitled to a deduction of \$919.00 for contributions in accordance with section 170 of the Internal Revenue Code; therefore, the

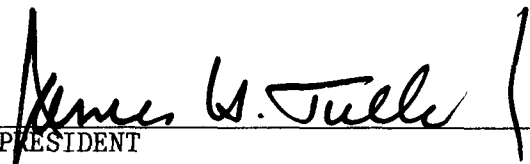
Audit Division is directed to accordingly modify the Notice of Deficiency issued July 25, 1977.

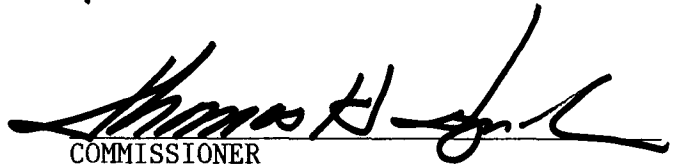
D. That the petition of Addie Johnson and Jannie Bell Johnson is granted to the extent provided in Conclusion of Law "C", and that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

STATE TAX COMMISSION

OCT 03 1980


PRESIDENT


COMMISSIONER


COMMISSIONER