

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Seymour B. & Eleanor Shpiz :
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 1973. :

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 2nd day of January, 1980, he served the within notice of Decision by certified mail upon Seymour B. & Eleanor Shpiz, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Seymour B. & Eleanor Shpiz
148 Ford Rd.
Sudbury, MA 01776

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
2nd day of January, 1980.

Joanne Knapp

J. Vredenburg

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

January 2, 1980

Seymour B. & Eleanor Shpiz
148 Ford Rd.
Sudbury, MA 01776

Dear Mr. & Mrs. Shpiz:

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	:	
SEYMOUR B. and ELEANOR SHPIZ	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1973.	:	

Petitioners, Seymour B. and Eleanor Shpiz, 148 Ford Road, Sudbury, Massachusetts 01776, 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. 18142).

On March 12, 1979, petitioners, Seymour B. and Eleanor Shpiz, advised the State Tax Commission, in writing, that they desired to waive a small claims hearing and to submit the case to the State Tax Commission based upon the entire record contained in the file.

ISSUE

Whether petitioners were entitled to an exemption claimed for Freida Shpiz, petitioner's mother, and whether they sustained the burden of proof to show that they were entitled to deduct miscellaneous deductions.

FINDINGS OF FACT

1. Petitioners, Seymour B. and Eleanor Shpiz, timely filed a New York State Income Tax Resident Return for 1973.

2. On November 5, 1975, a Statement of Audit Changes was issued against petitioners, on the grounds that they did not substantiate the exemption claimed for Freida Shpiz or miscellaneous deductions of \$510.00.

Accordingly, the Audit Division issued a Notice of Deficiency on January 24, 1977 in the amount of \$156.10 in personal income tax, plus \$32.52 in interest, for a total due of \$188.62.

3. Petitioners contended that they paid the rent of \$1,080.00 for Freida Shpiz's apartment in Brooklyn, New York.

4. Petitioners submitted cancelled checks, but no other documentary evidence to substantiate the miscellaneous deductions claimed. Six checks were made out to the Marvins Country Club for a total of \$298.50, and one check each to Ski Valley Club for \$50.00, American Express Co. for \$198.50, Robert Flynn for \$100.00 and American Management Association for \$50.00.

CONCLUSIONS OF LAW

A. That petitioners, Seymour B. and Eleanor Shpiz, failed to sustain the burden of proof required to show that they were entitled to the exemption claimed, in accordance with sections 151(e) and 152 of the Internal Revenue Code and Article 22 of the Tax Law.

B. That petitioners failed to submit satisfactory documentary evidence or other evidence to substantiate miscellaneous deductions of \$510.00 for 1973.

C. That the petition of Seymour B. and Eleanor Shpiz is denied and the Notice of Deficiency issued January 24, 1977 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

JAN 2 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER