

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of

Grayson Walker

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 23rd day of May, 1980, he served the within notice of Decision by certified mail upon Grayson Walker, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

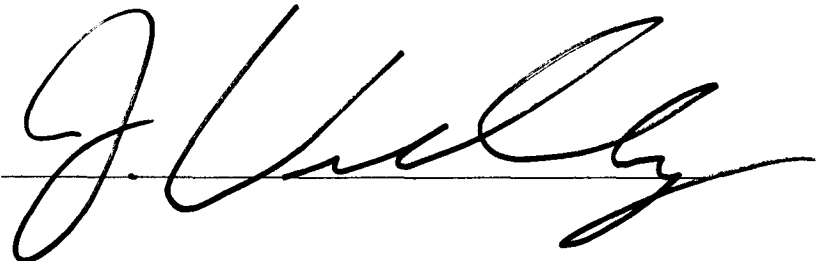
Grayson Walker
116 Juniper Hill Road
Greenburgh, NY 10607

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
23rd day of May, 1980.

Joanne Knapp



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

May 23, 1980

Grayson Walker
116 Juniper Hill Road
Greenburgh, NY 10607

Dear Mr. Walker:

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	:	
GRAYSON WALKER	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1972.	:	

Petitioner, Grayson Walker, 116 Juniper Hill Road, Greenburgh, New York 10607, 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. 15385).

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 August 14, 1979 at 9:15 A.M. Petitioner appeared pro se. The Audit Division appeared by Peter Crotty, Esq. (A. Schwadron, Esq., of counsel).

ISSUE

Whether petitioner properly deducted employee business expenses, business expenses and a casualty loss.

FINDINGS OF FACT

1. Petitioner, Grayson Walker, timely filed a New York State Combined Income Tax Return for the year 1972 on which he reported employee business expenses of \$1,975.00, medical and dental expenses of \$794.00, business expenses of \$925.00 and a casualty loss of \$4,897.00.

2. On January 25, 1974, the Income Tax Bureau issued a Statement of Audit Changes for \$602.13, including interest, on which it disallowed, in full, employee business expenses and a casualty loss and, in part, medical and dental expenses. The medical and dental expenses of \$794.00 were reduced to \$383.00, resulting in an adjustment of \$411.00. The medical deduction was further reduced by \$59.25, which represented an adjustment to statutory limitations imposed by the Internal Revenue Code due to an increase in adjusted gross income. The adjustments to the medical deduction were conceded by petitioner and are not at issue. On July 29, 1974, the Income Tax Bureau issued a Notice of Deficiency against petitioner.

3. Petitioner, Grayson Walker, was an automobile salesman for Ruckle Pontiac Co., Inc. during 1972 and, in that capacity, he contended that he incurred auto expenses of \$1,975.00 which were deducted and computed as follows:

Business mileage 15,000 at 12¢	\$1,800.00
Parking fees and tolls	175.00

Petitioner submitted a diary which contained no entries for business mileage traveled during 1972. In addition, the diary contained no entries as to where he traveled, whom he visited or what business transactions, if any, transpired. Receipts for parking fees and tolls were not submitted.

4. Petitioner contended that he incurred business expenses of \$925.00, which he labeled as "entertaining clients, gifts and premiums to clients". The diary contained, without specific dates, the last name of an individual and an amount representing the cost of a gift or an expenditure for entertainment. A number of receipts were submitted for the purchase of automotive parts and products, but the diary and the receipts had no notations as to the recipient of the particular item.

5. Petitioner's personal residence was burglarized on September 16, 1972, which was reported to the local law enforcement authorities. Petitioner provided them with a list of the items stolen and his own estimated appraisal of the value of items stolen, which estimate amounted to \$3,398.25. Receipts, pictures or other documentary evidence were not submitted.

CONCLUSIONS OF LAW

A. That petitioner, Grayson Walker, has failed to satisfy the record-keeping requirements of Treasury Regulation 1.274-5 and has failed to sustain the burden of proof required by section 689(e) of the Tax Law to establish that he incurred employee business expenses of \$1,975.00 and business expenses of \$925.00.

B. That petitioner, Grayson Walker, has failed to sustain the burden of proof as required by section 689(e) of the Tax Law to establish that he incurred a casualty loss of \$4,897.00.

C. That the petition of Grayson Walker is denied and the Notice of Deficiency issued July 29, 1974 for the year 1972 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

MAY 23 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER