

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of

Jaime Wigutow

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 1973. :

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 Jaime Wigutow, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jaime Wigutow
100 22 Asch Loop Apt. 226, Sect. C
Bronx, NY 10475

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

In the Matter of the Petition
of

Jaime Wigutow

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 1973. :

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 Albert L. Benson the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Albert L. Benson
Benson & Hochhauser, CPA
160 Old Country Rd.
Hicksville, NY 11801

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
23rd day of May, 1980.

Joanne Knapp

J. Vredenburg

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

May 23, 1980

Jaime Wigutow
100 22 Asch Loop Apt. 226, Sect. C
Bronx, NY 10475

Dear Mr. Wigutow:

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
Albert L. Benson
Benson & Hochhauser, CPA
160 Old Country Rd.
Hicksville, NY 11801
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
JAIME WIGUTOW	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1973.	:	

Petitioner, Jaime Wigutow, 100 22 Asch Loop, Apt. 226, Section C, 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. 16001).

On December 5, 1979, petitioner advised the State Tax Commission, in writing, that he desired to waive a small claims hearing and to submit the case to the State Tax Commission, based on the entire record contained in the file.

ISSUE

Whether petitioner, Jaime Wigutow, properly claimed a deduction for medical and dental expenses in the amount of \$1,074.00.

FINDINGS OF FACT

1. Petitioner, Jaime Wigutow, timely filed a New York State combined income tax resident return with his wife for the year 1973.

2. On August 26, 1975, the Income Tax Bureau issued a revised Statement of Audit Changes wherein petitioner's claimed deduction for medical and dental expenses was disallowed in its entirety as the result of audit. (Revision on said statement pertains to the ultimate allowance of exemptions claimed.)

Accordingly, a Notice of Deficiency was issued against the petitioner on May 24, 1976, asserting additional personal income tax in the amount of \$65.50, plus interest of \$10.35, for a total due of \$75.85.

3. Petitioner contended that, although substantiation was presented on audit, the entire expense at issue was disallowed since he was unable to establish the extent of reimbursement, if any, received from Blue Cross/Blue Shield.

4. The file contains a reply from Blue Cross/Blue Shield in response to petitioner's inquiry, the context of which indicates that they would not honor petitioner's request for specific reimbursement information.

5. Petitioner submitted extensive documentation in the form of checks, receipts and statements in support of medical and dental expenses claimed, which when analyzed and reduced by possible insurance reimbursements, computes to a net medical and dental expense deduction of \$677.88. This amount takes into consideration the limitations provided for in section 213 of the Internal Revenue Code.

CONCLUSIONS OF LAW

A. That petitioner, Jaime Wigutow, is properly entitled to a deduction for medical and dental expenses in the amount of \$677.88 for the taxable year 1973.

B. That the petition of Jaime Wigutow is granted to the extent provided in Conclusion of Law "A" supra and that in all other respects said petition is denied.

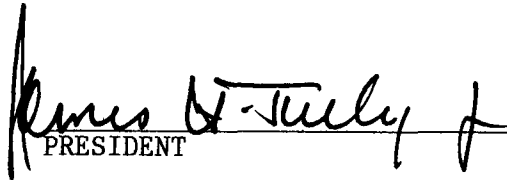
C. That the Audit Division is hereby directed to modify the Notice of

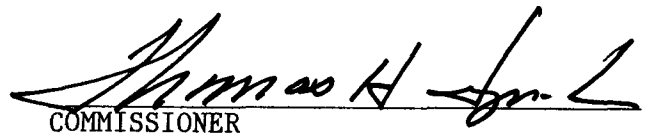
Deficiency dated May 24, 1976 to be consistent with the decision rendered herein.

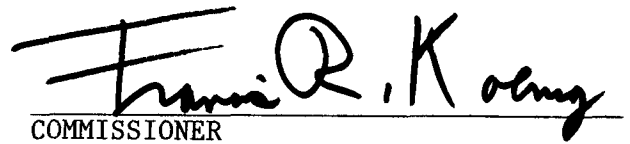
DATED: Albany, New York

MAY 23 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER