STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

of

Sidney Frankel

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
1970.

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:
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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 30th day of October, 1981, he served the within notice of Decision by
certified mail upon Sidney Frankel, the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper
addressed as follows:

Sidney Frankel
914 N.E. 169th Street
North Miami Beach, FL 33162

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
30th day of October, 1981.

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

October 30, 1981

Sidney Frankel
914 N.E. 169th Street
North Miami Beach, FL   33162

Dear Mr. Frankel:

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   :

    SIDNEY FRANKEL   :   DECISION

for Redetermination of a Deficiency or for   :
Refund of Personal Income Tax under Article 22
of the Tax Law for the Year 1970.   :

Petitioner, Sidney Frankel, 1654 East 13th Street, Brooklyn, New York

11229, 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 1970 (File No.

15147).

A small claims hearing was held before William Valcarcel, Hearing Officer,

at the of the State Tax Commission, Two World Trade Center, New York, New York,

on June 8, 1977 at 9:15 A.M. Petitioner appeared pro se. The Audit Division

appeared by Peter Crotty, Esq. (William Fox, Esq., of counsel).

ISSUE

Whether petitioner succeeded in establishing the existence and/or the

deductibility of contributions and travel, moving and medical expenses, as

claimed on his New York State income tax return for the year 1970.

FINDINGS OF FACT

1. Petitioner, Sidney Frankel, filed a New York State combined income tax

return for the year 1970, wherein travel expenses of $2,762.00, moving expenses

of $670.00, medical expenses of $983.00 and contributions of $1,301.00 were

claimed. In addition he claimed a capital loss of $1,000.00.

2. On May 11, 1973, the Audit Division issued a Statement of Audit

Changes against the petitioner, Sidney Frankel, imposing additional personal

income tax in the sum of $329.85 for the year 1970, on the grounds that various items of expense or loss were unsubstantiated and, thus, disallowed as follows:

	CLAIMED	ALLOWED	ADJUSTMENT
Travel Expenses	$2,762.00	$ -0-	$2,762.00
Moving Expenses	670.00	-0-	670.00
Capital Losses	1,000.00	500.00	500.00
Contributions	1,301.00	-0-	1,301.00
Medical Expenses	983.00	-0-	983.00

Accordingly, the Income Tax Bureau issued a Notice of Deficiency dated September 24, 1973. Petitioner concedes the capital loss adjustment.

3. Petitioner, Sidney Frankel, was employed as an accountant by the firm of Cornick, Garber and Sandler during the year 1970. Said employer required petitioner to use his personal automobile in conducting his assignments, reimbursing him at the rate of ten cents a mile.

4. Petitioner contended that he deducted the actual automobile expenses incurred above the amount reimbursed; however, he did not maintain a diary of his business activities and could not submit documentation to support his automobile expenses.

5. Petitioner deducted the expense of going to Israel to investigate employment possibilities there as a moving expense. No documentary evidence was submitted to support this deduction.

6. Petitioner submitted a letter from a religious organization establishing that he donated the sum of $770.00 during the year 1970.

7. Petitioner submitted documentation establishing medical expenses of $877.00 incurred by him, prior to a reduction for the limitations provided under section 213(a) of the Internal Revenue Code.

CONCLUSIONS OF LAW

A. That the petition of Sidney Frankel is granted to the extent that he has sustained the burden of proof in accordance with the meaning and intent of section 689(e) of the Tax Law. The Income Tax Bureau is directed to modify the Notice of Deficiency issued September 24, 1973 as follows:
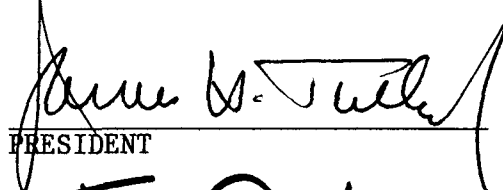
	CLAIMED	ALLOWED	ADJUSTMENT
Travel Expenses	$2,762.00	$ -0-	$2,762.00
Moving Expenses	670.00	-0-	670.00
Capital Losses	1,000.00	500.00	500.00
Contributions	1,301.00	770.00	531.00
Medical Expenses	983.00	496.00	487.00
IRC Section 213(a) Adjustment:			
3% of $3,432.00 =			103.00
TOTAL ADJUSTMENTS			$5,053.00

B. That the tax resulting from the above adjustments shall be due together with such additional interest as may be lawfully owing; therefore, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

OCT 30 1981

STATE TAX COMMISSION

_____
PRESIDENT

_____
COMMISSIONER

_____
COMMISSIONER