

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Allen & Patricia Gore :
: 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 :
1974. :

State of New York
County of Albany

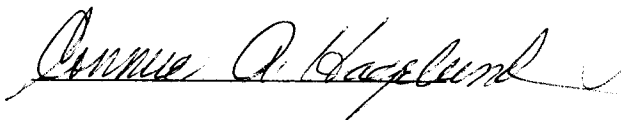
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 14th day of August, 1981, he served the within notice of Decision by certified mail upon Allen & Patricia Gore, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

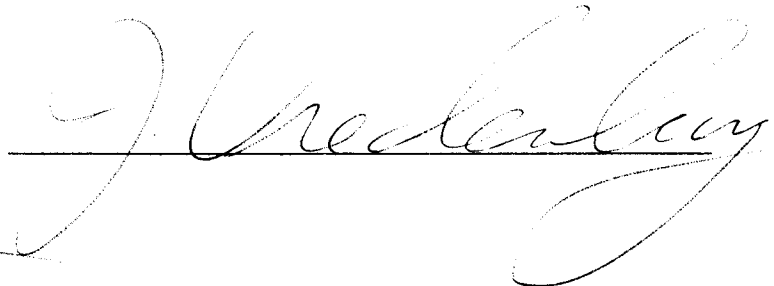
Allen & Patricia Gore
164 W. 79th St.
New York, NY 10024

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
14th day of August, 1981.


Carmine A. Haglund


Jay Vredenburg

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

August 14, 1981

Allen & Patricia Gore
164 W. 79th St.
New York, NY 10024

Dear Mr. & Mrs. Gore:

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	:	
ALLEN GORE AND PATRICIA GORE	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1974	:	

Petitioners, Allen Gore and Patricia Gore, 164 West 79th Street, New York, New York 10024, 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. 17833).

A small claims hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 23, 1980 at 9:15 A.M. Petitioner Allen Gore appeared pro se. The Audit Division appeared by Ralph J. Vecchio, Esq. (Samuel Freund, Esq., of counsel).

ISSUES

Whether petitioners are properly entitled to a moving expense deduction of \$5,850.00.

FINDINGS OF FACT

1. Petitioners, Allen Gore and Patricia Gore, timely filed a joint New York State Income Tax Resident Return for the period July 1, 1974 through December 31, 1974 wherein they claimed an adjustment to income for moving expenses of \$5,850.00.

2. On December 29, 1975, the Audit Division issued a Statement of Audit Changes to petitioners wherein, as the result of an audit, the deduction claimed for moving expenses of \$5,850.00 was disallowed in its entirety. Additionally, a capital gains modification was made pursuant to section 612(b)(11) of the Tax Law, but since said modification was not contested by petitioners, it is therefore not at issue herein. Accordingly, on December 20, 1976 a Notice of Deficiency was issued against petitioners asserting additional personal income tax of \$284.86, plus interest of \$40.73, for a total due of \$325.59.

3. During taxable year 1974, petitioner Allen Gore, a California resident, came to New York in search of employment. He secured a position with the Metropolitan Museum of Art which was to commence on July 1, 1974. Petitioners' claimed moving expenses were purportedly incurred with respect to their move to New York State for the purpose of commencing said employment.

4. Petitioner Allen Gore contended that the moving expense deduction claimed was comprised of expenses incurred for travel during move, pre-move travel, temporary living quarters, and expenses relative to the sale of petitioners' California residence.

5. Petitioner Allen Gore contended that he personally rented a truck and moved his household effects to New York. He claimed that his wife and children subsequently flew to New York.

6. No documentation was offered by petitioner to evidence payment of the various moving expenses at issue.

CONCLUSIONS OF LAW

A. That petitioners have failed to sustain their burden of proof required pursuant to section 689(e) of the Tax Law to show that the moving expenses

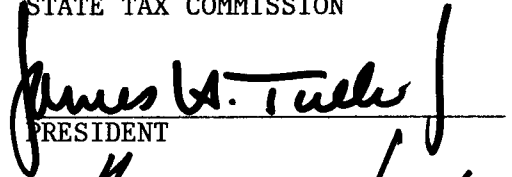
claimed were, in fact, incurred and paid. Accordingly, the adjustment to moving expenses of \$5,850.00 is sustained.

B. That the petition of Allen Gore and Patricia Gore is denied and the Notice of Deficiency dated December 20, 1976 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

AUG 14 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER