

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Sylvan & Joan Schefler :
: 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 Friday day of February 27, 1981, 1981, he served the within notice of Decision by certified mail upon Sylvan & Joan Schefler, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Sylvan & Joan Schefler
160 Cabrini Blvd.
New York, NY 10033

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.

James A. Haglund

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Sylvan & Joan Schefler :

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

David L. Handel
Irving Handel & Co.
100 Merrick Rd.
Rockville Center, NY 11570

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
14th day of August, 1981.

Annice A. Hagelbom

J. Vredenburg

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

August 14, 1981

Sylvan & Joan Scheffler
160 Cabrini Blvd.
New York, NY 10033

Dear Mr. & Mrs. Scheffler:

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
David L. Handel
Irving Handel & Co.
100 Merrick Rd.
Rockville Center, NY 11570
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
SYLVAN and JOAN SCHEFLER	:	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, Sylvan and Joan Schefler, 160 Cabrini Boulevard, New York, New York 10033, 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. 21294).

A formal hearing was held before Nigel N. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 24, 1981 at 9:40 A.M. Petitioners appeared by Irving Handel & Co., (David L. Handel, CPA). The Audit Division appeared by Ralph J. Vecchio, Esq. (Paul Lefebvre, Esq., of counsel).

ISSUE

Whether petitioners have substantiated deductions claimed for interest paid, contributions and business expenses.

FINDINGS OF FACT

1. A Notice of Deficiency was issued on November 28, 1977 to Sylvan and Joan K. Schefler for personal income tax under Article 22 of the Tax Law for the year 1974. It was in the amount of \$5,615.40, plus interest of \$1,251.44, for a total of \$6,866.84.

2. Mr. Sylvan Schefler is a stock broker with the firm of Drexel Burnham & Co. of 60 Broad Street, New York, New York. Mrs. Joan Schefler is the editor

of a quarterly magazine "Tarbut" published by the American-Israel Cultural Foundation, Inc. at 4 East 54th Street, New York, New York.

3. a. On their tax return petitioners claimed interest expense of \$17,998.00. Of this, \$4,815.00 was attributable to interest paid to a brokerage house, Drexel Burnham & Co. This amount was allowed. The remainder was not allowed. It consisted of purported payments to Chemical Bank of \$6,725.00; First National Bank of \$5,602.00; "Ford Motor" of \$370.00; "GMAC" of \$315.00; and to other creditors of \$86.00 and \$85.00.

b. Petitioners have submitted the following evidence of interest payments: A statement from Chemical Bank showing a payment on March 15, 1974 of a loan with accumulated interest of \$6,722.08; a statement from "Citibank" mailed to Mr. Sylvan Scheffler c/o Drexel Burnham and Lambert stating that interest had been paid in the amount of \$482.05 and \$5,504.19 on two loans. They also submitted numerous cancelled checks payable to Ford Motor Credit Company and General Motors Acceptance Corp. which, however, do not indicate the nature of the payments made.

4. a. On line 21a of Schedule A of their Federal tax return petitioners claimed a deduction for cash contributions of \$9,423.00. The amount of \$2,490.00 was substantiated through receipts, cancelled checks, etc. The remaining contributions of \$6,933.00 were disallowed.

b. It is now claimed that Mrs. Scheffler incurred substantial expenses in connection with her editorial activities. These amounts are for automobile parking fees, taxicabs, lunches, domestic help, books and publications and dinners. Petitioner did not submit any receipts or other documentary evidence to show that said expenses were incurred and/or paid. Petitioners submitted

into evidence one cancelled check made payable to "Katz Parking System" in the amount of \$98.66. He did not explain what the payment was for.

5. a. Petitioners claimed "miscellaneous deductions "of \$17,320.00. \$14,845.00 of this was for "unreimbursed business expenses" which were not further itemized. The entire amount was disallowed.

b. Petitioners now claim expenses of \$29,993.56 as business expenses of Sylvan Schefler. In support they have attempted through their representative to introduce into evidence what purports to be a diary recording such expenses. Petitioners were not at the hearing and did not swear to the accuracy of said diary. At a previous conference, the Audit Division had requested such a diary, but petitioners had refused to submit one. The alleged diary was rejected as evidence in this case.

CONCLUSIONS OF LAW

A. That interest expense will be allowed for amounts paid to Chemical Bank and Citibank as shown by the statements set forth in Finding of Fact 3b. The remaining payments alleged by petitioners have not been shown to be interest.

B. That contributions will not be allowed in any greater amount than the \$2,490.00 already allowed. Petitioners have in no way produced proof of the cash contributions claimed on their tax return. Insofar as petitioners are making an additional claim over and above that shown on the return, such claim must still be denied. The unsworn claims of petitioners cannot be accepted as evidence.

C. That miscellaneous deductions cannot be allowed at all. Petitioner's claims are not supported by any evidence. The offer of proof of an alleged diary with no authentication or explanation was properly rejected. Any such

alleged diary, even in evidence, would be suspect in view of petitioners' previous refusal to produce one.

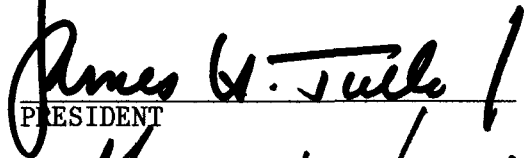
D. The petitioners have not met the substantiation requirements of Treas. Reg. §1.274-5 to establish that the expenses shown in Findings of Fact 4b and 5b were incurred and/or paid; accordingly they have not sustained the burden of proof imposed by section 689(e) of the Tax Law.

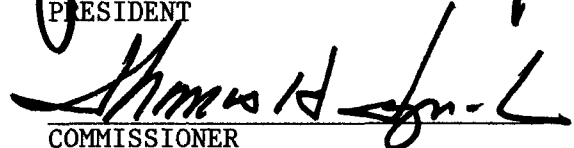
E. The petition is granted to the extent that the deficiency will be recomputed to allow the deductions as stated in Conclusion of Law "A" above. In all other respects, the petition is denied.

DATED: Albany, New York

AUG 14 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

TA 26 (9-79)
STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

120

0015000

RETURNED TO SENDER
UNCLAIMED
New York, N.Y. 10033

Sylvan & Joan Scheffler
160 Cabrini Blvd.
New York, NY 10033

CLAIM CHECK
NO.

☐ HOLD

DATE

11/19/81

LAST NOTICE

AUG 24 1981

2ND NOTICE

SEP 3

RETURN

Detached from
PS Form 3849-A
May 1979

RECEIVED
SEP 14 1981
TAX APPEALS BUREAU

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

August 14, 1981

Sylvan & Joan Schefler
160 Cabrini Blvd.
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STATE TAX COMMISSION

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STATE TAX COMMISSION

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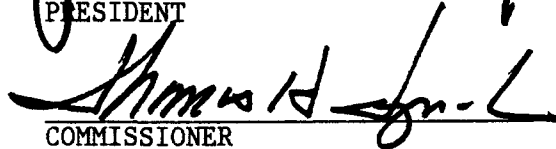
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