

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition  
of  
Vincent & Anna Shevlin

:

:

: 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 Years :  
1973 - 1975.

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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 17th day of July, 1981, he served the within notice of Decision by certified mail upon Vincent & Anna Shevlin, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Vincent & Anna Shevlin  
7 Hudson Rd.  
Bellerose Village, NY 11426

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  
17th day of July, 1981.

*Cornelia A. Haglund*

*J. Vredenburg*

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

July 17, 1981

Vincent & Anna Shevlin  
7 Hudson Rd.  
Bellerose Village, NY 11426

Dear Mr. & Mrs. Shevlin:

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

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In the Matter of the Petition  
of  
VINCENT W. SHEVLIN and ANNA M. SHEVLIN  
for Redetermination of a Deficiency or for  
Refund of Personal Income Tax under Article 22  
of the Tax Law for the Years 1973, 1974 and  
1975.

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DECISION

Petitioner, Vincent W. Shevlin and Anna M. Shevlin, 108 Cleveland Avenue, Massapequa, New York 11758, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1973, 1974 and 1975 (File No. 22506).

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 October 30, 1980 at 1:15 P.M. Petitioner Vincent W. Shevlin appeared pro se and for his wife, petitioner Anna M. Shevlin. The Audit Division appeared by Ralph J. Vecchio, Esq. (A. Scopellito, Esq., of counsel).

ISSUE

Whether petitioners properly reported a casualty loss and alimony payments.

FINDINGS OF FACT

1. Petitioners, Vincent W. Shevlin and Anna M. Shevlin, timely filed joint New York State income tax resident returns for the years 1973, 1974 and 1975.

2. On May 27, 1976, petitioners filed amended New York State combined income tax returns for the years 1973, 1974 and 1975, requesting refunds of \$477.89, \$356.90 and \$333.80, respectively.

3. On January 25, 1978, petitioners signed a consent extending the period of limitation for the year 1974 to April 15, 1979.

4. On May 22, 1978, the Audit Division issued two notices of disallowance, on which the refund claimed for the year 1973 was reduced from \$477.89 to \$26.01 and the refunds claimed for the years 1974 and 1975 were disallowed in full. In addition, a Notice of Deficiency was issued for \$374.60 plus interest of \$77.42 for the years 1974 and 1975, along with explanatory statements of audit changes outlining the results of an audit conducted by the Audit Division for the years 1973, 1974 and 1975. Although a variety of adjustments were imposed by the Audit Division in each of the three years at issue, petitioners solely protested the adjustments made to alimony payments deducted for the years 1973, 1974 and 1975 and an adjustment to a casualty loss deducted for the year 1975. All other adjustments were conceded by petitioners and are not at issue.

5. The Audit Division adjusted petitioner's alimony deduction as follows:

Alimony Payments:	<u>Claimed Per Return</u>	<u>Allowed Per Audit</u>	<u>Adjustment</u>
1973	\$6,906.00	\$1,920.00	\$4,986.00
1974	6,921.00	1,920.00	5,001.00
1975	6,921.00	1,920.00	5,001.00

The Audit Division allowed an alimony deduction of \$1,920.00 for each of the three years at issue based on a court order, granted July 19, 1966, which provided that "Vincent M. Shevlin" was to pay his former wife "for her support and maintenance the sum of \$160.00 per month and the further and additional sum of \$240.00 per month for the support and maintenance of the three infant issue of the marriage."

6. Petitioner Vincent W. Shevlin contended that subsequent to the court order of July 19, 1966, he and his former wife drew up and signed a written agreement, which provided that alimony payments of 28½ percent of petitioner's salary would be made to his former wife. Petitioner did not submit a copy of the aforementioned agreement.

7. Petitioner's home was burglarized on October 2, 1975 and such burglary was reported to the local law enforcement agency. Accordingly, petitioners deducted a casualty loss for the year 1975 as follows:

Burglary loss .....	\$3,105.00
Less: Insurance Reimbursement ...	300.00
Net Loss .....	\$2,805.00
Less: \$100.00 Limitation .....	100.00
Casualty Loss Claimed .....	<u>\$2,705.00</u>

As a result of its examination, the Audit Division reduced the casualty loss from \$2,705.00 to \$1,662.00.

8. Petitioners submitted an itemized list of stolen articles which showed a total value of \$3,045.00 for such items. No other documentary evidence was submitted in support of the casualty loss claimed.

#### CONCLUSIONS OF LAW

A. That petitioners, Vincent W. Shevlin and Anna M. Shevlin, have failed to sustain the burden of proof required by section 689(e) of the Tax Law in establishing that they were entitled, within the purview of the Internal Revenue Code and Article 22 of the Tax Law, to larger deductions than those allowed by the Audit Division.

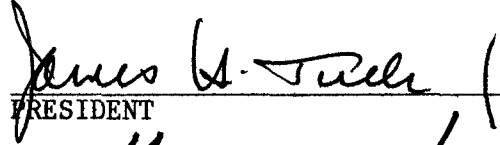
B. That the petition of Vincent W. Shevlin and Ann M. Shevlin is denied and the Notice of Deficiency as well as the notices of disallowance, all issued

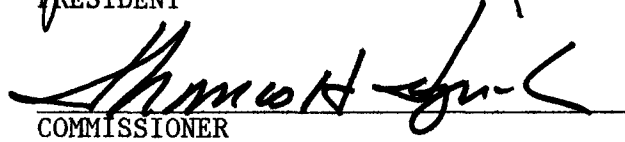
on May 22, 1978, are sustained, along with any additional interest as may be lawfully due.

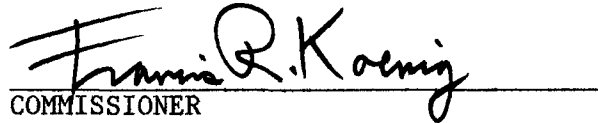
DATED: Albany, New York

JUL 17 1981

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

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

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Very truly yours,

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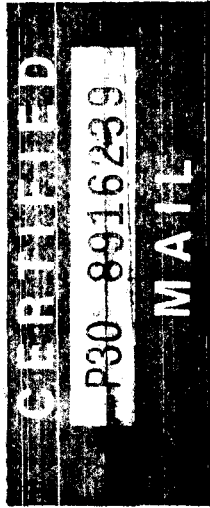
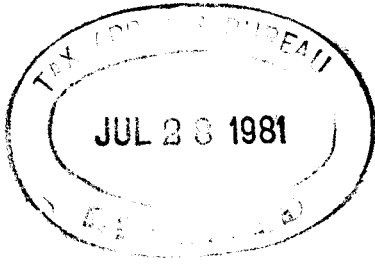
Taxing Bureau's Representative

TA 26 (9-79)

STATE OF NEW YORK  
State Tax Commission  
TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N. Y. 12227

Vincent & Anna Shevlin  
7 Hudson Rd.  
Bellerose Village, NY 11426

*CONF*





REQUEST FOR BETTER ADDRESS

Dec. 22

Requested by <i>J. Vredenburg</i>	Unit Appeals Bureau Room 107 - Bldg. #2 State Campus Albany, New York 12227	Date of Request 8-18-81
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Please find most recent address of taxpayer described below; return to person named above.

Social Security Number 051-28-0382	Date of Petition <i>G</i>
Name Vincent & Anna Shevlin	
Address 7 - Hudson Rd. Bellerose Village, N.Y. 11426	

## Results of search by Files

<input type="checkbox"/> New address:	
<input checked="" type="checkbox"/> Same as above, no better address	
<input type="checkbox"/> Other:	

Searched by <i>L. Panetta</i>	Section <i>Master Index</i>	Date of Search 8-27-81
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PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER

STATE OF NEW YORK

STATE TAX COMMISSION

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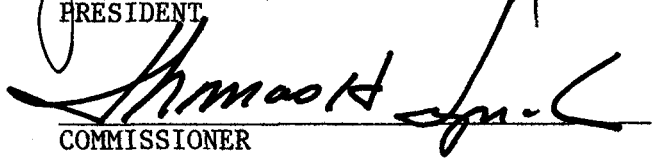
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DATED: Albany, New York

JUL 17 1981

STATE TAX COMMISSION

  
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