

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition :  
of :  
Martin J. Flor : 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 :  
1975.

---

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 29th day of January, 1982, he served the within notice of Decision by certified mail upon Martin J. Flor, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Martin J. Flor  
1600 S. Eads St., Apt. 11  
Arlington, VA 22202

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  
29th day of January, 1982.

*Annice A. Hagelund*

*J. Vredenburg*

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

January 29, 1982

Kenneth Walker  
115 E. 34th St.  
New York, NY 10016

Dear Mr. Walker:

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) 722 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  
Arnold Blech  
1900 Hempstead Tpke.  
E. Meadow, NY 11554  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
of	:	
MARTIN J. FLOR	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law for the Year 1975.	:	

---

Petitioner, Martin J. Flor, 1600 S. Eads Street, Apt. 117 S., Arlington, Virginia 22202, 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 1975 (File No. 23218).

By a signed statement dated May 1, 1981, petitioner has waived a hearing and submits his case for decision by the State Tax Commission based on the record as it exists. After due consideration of the record, the Commission renders the following decision.

ISSUES

I. Whether certain itemized deductions claimed by petitioner for medical expenses and travel expenses were properly disallowed as itemized deductions against petitioner's New York adjusted gross income.

II. Whether State and local income taxes are allowable as an itemized deduction against the New York adjusted gross income of a resident individual.

FINDINGS OF FACT

1. Petitioner, Martin J. Flor, and his wife, Betty A. Flor, timely filed a joint New York State Income Tax Resident Return (Form IT-201) for the tax year 1975.

2. Petitioner and his wife also filed a joint Federal income tax return for the tax year 1975. Petitioner and his wife elected to itemize their deductions on both the Federal and New York State returns.

3. On May 5, 1978, the Audit Division issued a timely Notice of Deficiency to Martin J. Flor and Betty A. Flor which asserted additional income tax due for 1975 in the amount of \$192.74 plus interest.

4. The asserted deficiency was based in part on the results of a Federal audit of petitioner's 1975 Federal income tax return, pursuant to which travel expenses and medical expenses, in the amounts of \$411.71 and \$226.72 respectively, were disallowed as itemized deductions. Petitioner did not report such Federal changes to the New York State Department of Taxation and Finance, nor has he offered any information tending to substantiate the deductibility of these expenses.

5. The asserted deficiency was also based in part on petitioner's inclusion of State and local income taxes as an itemized deduction on his New York State income tax return for 1975. Petitioner claimed such taxes, in the amount of \$1,481.10, as part of his federal itemized deduction, but failed to make any modification reducing his New York State itemized deduction by this amount.

#### CONCLUSIONS OF LAW

A. That section 659 of the Tax Law provides in pertinent part:

"If the amount of a taxpayer's federal taxable income... reported on his federal income tax return for any taxable year is changed or corrected by the United States internal revenue service or other competent authority,..., the taxpayer...shall report such change or correction in federal taxable income...within ninety days after the final determination of such change, correction,...,and shall concede the accuracy of such determination or state wherein it is erroneous.

B. That petitioner did not report changes in his federal taxable income resulting from the federal audit disallowance of travel and medical expenses, nor has petitioner shown why such disallowance was erroneous, and thus the Audit Division's disallowance of such deductions was proper.

C. That according to section 615(a) of the Tax Law, "...[t]he New York itemized deduction of a resident individual means the total amount of his deductions from federal adjusted gross income, ..., with the modifications specified in this section.". Furthermore, section 615(c)(1) of the Tax Law provides that income taxes imposed by the State or any other taxing jurisdiction shall be among those specified modifications reducing the total amount of deductions from federal adjusted gross income. The result of such modification to deductions from federal adjusted gross income therefore is a reduction in the New York itemized deduction of a resident individual.

D. That the Audit Division properly disallowed that portion of petitioner's New York itemized deduction which represented State and local taxes for which petitioner failed to make the required modification as explained in Conclusion of Law "C".

E. That the petition of Martin J. Flor is hereby denied and the Notice of Deficiency is sustained.

Dated: Albany, New York

JAN 29 1982

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER