

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
Regina A. Gale	:	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

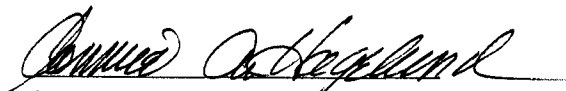
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 14th day of December, 1982, he served the within notice of Decision by certified mail upon Regina A. Gale, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Regina A. Gale
Canterbury J-222, Century Village
West Palm Beach, FL 33409

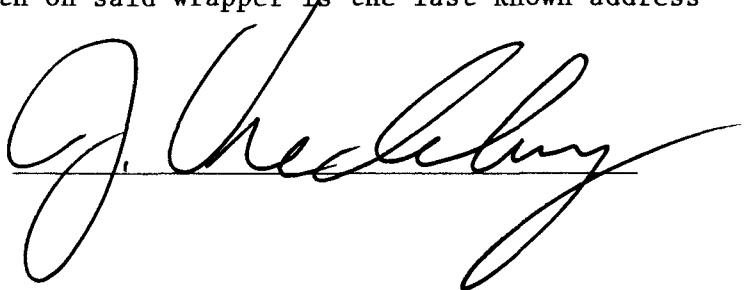
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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 December, 1982.



AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



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

December 14, 1982

Regina A. Gale
Canterbury J-222, Century Village
West Palm Beach, FL 33409

Dear Ms. Gale:

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
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

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
REGINA A. GALE
for Redetermination of a Deficiency or for
Refund of Personal Income Tax under Article
22 of the Tax Law for the Year 1975.

:
:
:
DECISION
:
:
:

Petitioner, Regina A. Gale, Canterbury J-222, Century Village, West Palm Beach, Florida 33409, 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. 26689).

On June 1, 1981, petitioner advised the State Tax Commission, in writing, that she desired to waive a small claims hearing and submit the case to the State Tax Commission based upon the entire record contained in the file.

ISSUES

- I. Whether petitioner was required to report Federal audit changes to New York State.
- II. Whether petitioner has shown that the Federal changes were incorrect.

FINDINGS OF FACT

1. Petitioner, Regina A. Gale, filed a New York State Income Tax Resident Return for 1975 on Form IT-201.
2. On August 1, 1978, the Audit Division issued a Statement of Audit Changes increasing petitioner's income tax liability based on information obtained from the Internal Revenue Service under Internal Revenue Code section 6103(D). An adjustment was also made for state and local income taxes not deducted in arriving at New York itemized deductions. The adjustment for state

and local income taxes is not at issue in this submission. Accordingly, on April 5, 1979 a Notice of Deficiency was issued to petitioner asserting additional personal income tax of \$124.74 plus interest of \$31.49 for a balance due of \$156.23.

3. On February 9, 1978, the Audit Division received a Federal audit report disclosing that petitioner had failed to report alimony income of \$2,260.00. Petitioner's representative had requested in his letters of August 7, 1978 and April 18, 1979, that his client's New York State tax liability be held in abeyance pending a hearing and determination by the Internal Revenue Service. On December 15, 1980, a perfected petition was received from petitioner in which she stated that the Internal Revenue Service sent her a letter stating that she owed no income taxes up to 1976.

4. Petitioner did not submit any documentary evidence or Federal documents to show that the Internal Revenue Service accepted her 1975 income tax return as filed or that a hearing was conducted and a decision rendered regarding her Federal tax liability for said year.

CONCLUSIONS OF LAW

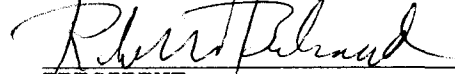
A. That petitioner Regina A. Gale did not sustain her burden of proof imposed by section 689(e) of the Tax Law in showing that the adjustment made by the Internal Revenue Service was erroneous. Therefore, petitioner was required to report the increase in her Federal taxable income to New York State pursuant to section 659 of the Tax Law.

B. That the petition of Regina A. Gale is denied, and the Notice of Deficiency issued on April 5, 1979 is sustained, together with such additional interest that may be lawfully owing.

DATED: Albany, New York

DEC 14 1982

STATE TAX COMMISSION



ACTING PRESIDENT


COMMISSIONER
COMMISSIONER