

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
Ignaz & Feiga Grunsweig	:	
for Redetermination of a Deficiency or a Revision	:	AFFIDAVIT OF MAILING
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 4th day of August, 1982, he served the within notice of Decision by certified mail upon Ignaz & Feiga Grunsweig, the petitioners in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Ignaz & Feiga Grunsweig
P.O. Box E
Beachdale Rd.
Bird in Hand, PA 17505

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
4th day of August, 1982.

Omnia A. Haglund

J. Vredenburg

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Ignaz & Feiga Grunsweig :
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 4th day of August, 1982, he served the within notice of Decision by certified mail upon George Hershkowitz the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

George Hershkowitz
1795 McDonald Avenue
Brooklyn, NY 11230

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
4th day of August, 1982.

Annunzio R. Haglund

J. Vredenburg

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

August 4, 1982

Ignaz & Feiga Grunsweig
P.O. Box E
Beachdale Rd.
Bird in Hand, PA 17505

Dear Mr. & Mrs. Grunsweig:

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
George Hershkowitz
1795 McDonald Avenue
Brooklyn, NY 11230
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
IGNAZ GRUNSWEIG & FEIGA GRUNSWEIG
for Redetermination of a Deficiency or for
Refund of Personal Income Tax under Article
22 of the Tax Law for the Year 1974.

DECISION

Petitioners, Ignaz Grunsweig and Feiga Grunsweig, P.O. Box E, Beachdale Road, Bird in Hand, Pennsylvania 17505, 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. 28568).

A small claims hearing was held before Samuel Levy, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 29, 1981 at 1:15 P.M. Petitioners appeared by George Hershkowitz. The Audit Division appeared by Ralph J. Vecchio, Esq. (Alexander Weiss, Esq., of counsel).

ISSUES

I. Whether petitioners were domiciled in and residents of New York State for income tax purposes during 1974.

II. Whether petitioners are entitled to claim itemized deductions in lieu of the standard deduction allowed them by the Audit Division.

FINDINGS OF FACT

1. Petitioners failed to file a New York State personal income tax return for the subject year.

2. On August 17, 1979, the Audit Division issued a Notice of Deficiency against petitioners asserting personal income tax of \$917.40, together with

penalties pursuant to section 685, subsections (a)(1) and (a)(2) of the Tax Law and interest of \$774.18, for a total of \$1,691.58. The Notice of Deficiency was based on information obtained from the Internal Revenue Service which showed that petitioners had a New York address; and, their failure to submit information requested in correspondence sent them by the Audit Division. Accordingly, the Audit Division held that petitioners were domiciled in New York, and, that income earned by them is subject to personal income tax for 1974.

3. At the hearing, the petitioners conceded that they were domiciled in and residents of New York State for personal income tax purposes during 1974.

4. At the hearing, the petitioners and the Audit Division stipulated that, in lieu of the standard deduction previously determined by the Audit Division, they be allowed the itemized deductions claimed on their Federal Form, 1040, after adjustments, as follows:

<u>ITEM</u>	<u>AMOUNT ALLOWED</u>
Medical	\$ 274.13
Sales Tax	260.00
Contributions	4,250.00
Miscellaneous	475.00
Total	\$5,259.13
Less: Standard Deduction - Previously Allowed	2,000.00
Net Additional Allowance	<u>\$3,259.13</u>

5. Petitioners did not argue the assertion of penalties.

CONCLUSIONS OF LAW

A. That petitioners, Ignaz Grunsweig and Feiga Grunsweig, were domiciled in and residents of New York State during the entire year 1974 in accordance with the meaning and intent of section 605(a) of the Tax Law, 20 NYCRR 102.2, and Finding of Fact "3" supra.

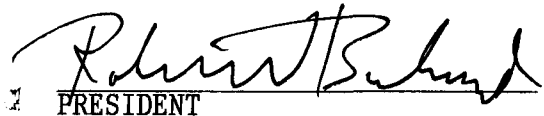
B. That the itemized deductions claimed on petitioners Federal income tax return, as adjusted, are allowed in lieu of the standard deduction in accordance with Finding of Fact "4" supra.

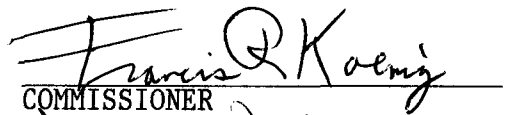
C. That the Audit Division is hereby directed to modify the Notice of Deficiency dated August 17, 1979, to be consistent with the Conclusions of Law determined herein; and that said Notice of Deficiency, as modified, is sustained, together with such penalty and interest as may be legally due.

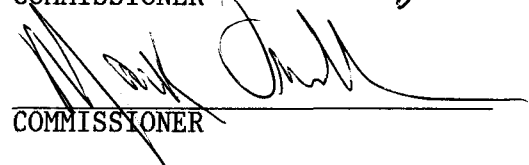
DATED: Albany, New York

AUG 04 1982

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER