

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JAMES D. & LUCILLE A. BRODIE

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1967

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 29th day of October , 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon James D. & Lucille A. Brodie (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: James D. & Lucille A. Brodie
3454 Manor Lane
Birmingham, Alabama

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

29th day of October , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
JAMES D. & LUCILLE A. BRODIE	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1967.	:	

The taxpayers, James D. and Lucille A. Brodie, filed a petition for redetermination of a deficiency in income tax for the year 1967. The case was submitted for decision on the information in the file.

ISSUE

Was the Income Tax Bureau's reduction to \$455.23 of petitioners' claimed casualty loss of \$2,485.00 correct?

FINDINGS OF FACT

1. The petitioners timely filed a New York State income tax return for the year 1967.
2. A Notice of Determination of Deficiency in income tax was issued, under file No. 78430901 against the taxpayers, disallowing \$1,929.77 of a claimed loss by theft of \$2,485.00. The Statement of Audit Changes questions valuation of the items and also states "Clothing has very little resale value after leaving the store".
3. The apartment of the petitioner Lucille A. Canale Brodie was burglarized on May 17, 1967, and the burglary was reported to the police.
4. The petitioner, Lucille A. Brodie, submitted an itemized list of the items stolen. The items included an amplifier tuner,

television, tape recorder, radio, a camera, a portable typewriter; various electric appliances, such as an electric makeup mirror, electric hair curlers, electric frying pan, iron, sewing machine, blender, etc.; a mink stole, and also a considerable number of jewelry items, with a total estimated value of \$2,485.00. The value of the mink stole was estimated at \$600.00 by the taxpayer, and it was the only item of clothing on the lengthy list of stolen items.

5. In addition to petitioner's itemized schedule of the items stolen, with estimated values, the facts indicate her income warranted ownership of items of such value and she submitted cancelled checks indicating regular purchases of expensive items from better known stores, all of which tend to support her estimated values.

6. The items stolen were all of a fairly durable nature with the exception of the mink stole. The thief ignored furniture, clothing, china, etc., and concentrated on things which were of considerable value. The reasonable value of all the items stolen with some allowance for wear and tear was \$1,985.00.

CONCLUSIONS OF LAW

A. The petition is sustained in part and denied in part.

B. The deduction for theft loss is reduced to \$1,985.00 and the deficiency shall be recomputed accordingly.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
October 29, 1971

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Manley
COMMISSIONER

Milton Kerner
COMMISSIONER