

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DANIEL R. & SYLVIA S. FELMUS

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)~~ 1971.

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

State of New York
County of Albany

Janet Mack, 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 11th day of March , 1975 , she served the within
Notice of Decision ~~(for Redetermination)~~ by (certified) mail upon Daniel R. and
Sylvia S. Felmus ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. & Mrs. Daniel R. Felmus
5838 Collins Avenue
Miami, Florida 33140

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)~~
~~(s)~~ 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

11th day of March , 19 75

Katherine A. Maully

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

• STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

Saul Heckelman, Acting President

~~XXXXXXXXXXXXXXXXXXXX~~

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214-A

STATE CAMPUS

ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655

MR. LEISNER 457-2657

MR. COBURN 457-2896

DATED: Albany, New York
March 11, 1973

Mr. & Mrs. Daniel R. Felmus
5838 Collins Avenue
Miami, Florida 33140

Dear Mr. & Mrs. Felmus:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section (x) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

L. Robert Leisner
HEARING OFFICER

Enc.

cc: ~~Petitioners' Representative~~
Law Bureau

STATE OF NEW YORK

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of
DANIEL R. & SYLVIA S. FELMUS
for Redetermination of a Deficiency or
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under Article 22 of the Tax Law for the
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DECISION

Petitioners, Daniel R. and Sylvia S. Felmus, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1971.

The case was submitted for decision on information contained in the file and referred to L. Robert Leisner for review. The Income Tax Bureau was represented by Saul Heckelman, Esq.

ISSUE

Was the proper allocation of itemized deductions made?

FINDINGS OF FACT

1. Petitioners Daniel R. and Sylvia S. Felmus timely filed New York State income tax returns for the year 1971.
2. A Notice of Determination of deficiencies in personal income taxes for the year 1971 was issued on March 25, 1974, against the taxpayers under File No. 1-89130000.
3. The taxpayers petitioned for redetermination of the deficiencies.

4. The audit statement made adjustment for life insurance premiums, itemized deductions exemptions and capital gains based on a change of residence to Florida and allocated five-twelfths of the itemized deductions to be deducted from New York income.

5. The taxpayers disputed the itemized deductions allowed against New York income.

6. The Federal itemized deductions were \$4,675.00. After eliminating state taxes the Federal itemized deductions adjusted by life insurance, etc. for the entire year were \$4,403.00.

7. However, the taxpayers moved to Florida at the end of May. The expenses reflected in the itemized deductions were for the entire year. The taxpayers failed to show that all expense occurred before they left for Florida.

CONCLUSIONS OF LAW

A. The qualifying itemized deductions for the year must be allocated, five months to New York State, and the balance to the taxpayers' new residence; no proof is given that all the expenses occurred before the taxpayers moved to Florida.

B. The taxpayers' petition is denied and the deficiency is sustained.

- 3 -

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

DATED: Albany, New York

STATE TAX COMMISSION

March 11, 1975

PRESIDENT


COMMISSIONER


COMMISSIONER