

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MARTIN N. & GERTRUDE WHYMAN

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(x)~~ 22 of the
Tax Law for the Year ~~(x)~~ 1970.

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 9th day of October, 1975, she served the within
Notice of Decision (~~xx Determination~~) by (certified) mail upon MARTIN N. &
GERTRUDE WHYMAN (~~representative of~~) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. and Mrs. Martin N. Whyman
4400 Hillcrest Drive
Hollywood, Florida 33021
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

9th day of October, 1975

Mary [Signature]

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

JAMES H. TULLY, JR., PRESIDENT

MILTON KOERNER

~~GEORGE O'CONNELL~~

BUILDING 9, ROOM ¹⁰⁷~~207~~
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

Mr. Wright

Mr. Coburn

Mr. Leisner

(518) 457-3336

DATED: Albany, New York
October 9, 1975

Mr. and Mrs. Martin W. Whyman
4400 Hillcrest Drive
Hollywood, Florida 33021

Dear Mr. and Mrs. Whyman:

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

Please take further notice that pursuant to
Section(a) **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: ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

| | | |
|---|---|----------|
| In the Matter of the Petition | : | |
| of | : | |
| MARTIN N. WHYMAN and GERTRUDE WHYMAN | : | DECISION |
| for Redetermination of a Deficiency or | : | |
| for Refund of Personal Income Taxes | : | |
| under Article 22 of the Tax Law for the | : | |
| Year 1970. | : | |

Petitioners, Martin N. Whyman and Gertrude Whyman, 4400 Hillcrest Drive, Hollywood, Florida 33021, petitioned for a redetermination of a deficiency in personal income taxes under Article 22 of the Tax Law for the year 1970.

On December 4, 1974, the taxpayers waived a formal hearing before the State Tax Commission. The case was submitted for decision on information contained in the file.

ISSUE

Whether petitioners, Martin N. Whyman and Gertrude Whyman's adjustments to Federal adjusted gross income for the year 1970 have been substantiated?

FINDINGS OF FACT

1. Petitioners, Martin N. Whyman and Gertrude Whyman, timely filed a New York State nonresident income tax return for the year 1970.
2. A Notice of Determination of deficiencies in personal income tax for the year 1970 was issued on January 29, 1973 against the taxpayers under File No. 069113061.
3. The taxpayers petitioned for redetermination of the deficiencies.
4. On January 29, 1969, petitioner, Martin N. Whyman, entered into a contract for the purchase of an apartment at 4400 Hillcrest Drive, Hollywood, Florida. During the year 1969, petitioner, Gertrude Whyman, moved to Florida. Petitioner, Martin Whyman, changed his residence to Florida on November 1, 1970. Prior to that time, petitioners, Martin N. Whyman and Gertrude Whyman, lived and worked in New York State.
5. Petitioner, Martin N. Whyman, is an attorney. After moving to Florida, he continued to act as a consultant for his New York employer.

6. On April 5, 1971, petitioners, Martin N. Whyman and Gertrude Whyman, filed New York State income tax nonresident return with an adjustment in the sum of \$4,500.00 based on figures claimed on their Federal income tax return for moving expenses in the sum of \$3,500.00 and for capital loss carryover in the sum of \$1,000.00. Petitioner, Martin Whyman, initially refused to substantiate his adjustments. He finally submitted a retained copy of his 1970 Federal return and asserted that the return was conclusive of the issue under section 689(f) of the Tax Law.

CONCLUSIONS OF LAW

A. That no evidence has been submitted to show that the Federal government ever questioned or verified these items as claimed on the Federal income tax return.

B. That no documentary evidence in the form of cancelled checks, receipts nor any other substantial evidence has been furnished to verify petitioners' claim for adjustment for moving expenses.

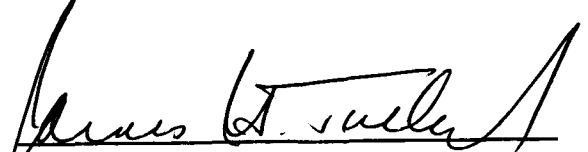
C. That no documentary evidence in the form of cancelled checks, receipts nor any other substantial evidence has been furnished to verify petitioners' claim for adjustment for capital loss carryover.

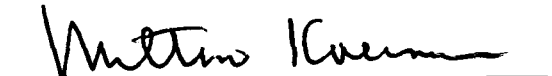
D. That the petition is denied and the determination of the deficiency in income tax is sustained.

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

DATED: Albany, New York
October 9, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER