

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ALFRED D. ESPOSITO
and
MARY E. ESPOSITO
For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article 22 of the :
Tax Law for the Year ~~1969~~ 1969:

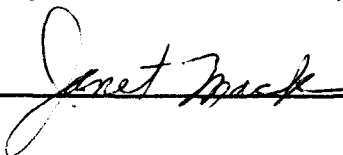
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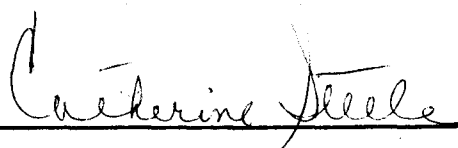
State of New York
County of Albany

Catherine Steele, 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 10th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Alfred D. Esposito and Mary E. Esposito ~~(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. Alfred D. Esposito
Pine Street, Box 747
East Moriches, New York 11940
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
10th day of September, 1976.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

September 10, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. Alfred D. Esposito
Pine Street, Box 747
East Moriches, New York 11940

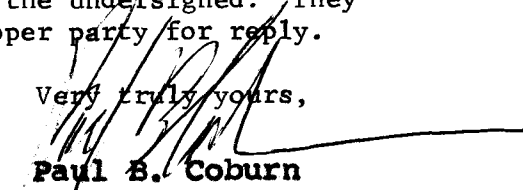
Dear Mr. & Mrs. Esposito:

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

Please take further notice that pursuant to
Section ~~601~~ **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.

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. They
will be referred to the proper party for reply.

Very truly yours,


Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

~~XX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ALFRED D. ESPOSITO	:	
and	:	DECISION
MARY E. ESPOSITO	:	
for Redetermination of Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1969.	:	
	:	

Petitioners, Alfred D. Esposito and Mary E. Esposito, residing at Pine Street, Box 747, East Moriches, New York, have filed a petition for redetermination or for refund of personal income taxes under Article 22 of the Tax Law for the year 1969. (File No. 00372). A formal hearing was held before Julius E. Braun, Esq., Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York City, on May 4, 1976, at 2:45 P.M. Petitioner appeared pro se and for Mary E. Esposito, his wife. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether receipts from a Federal Government pension are includible in the income of a New York State resident.

FINDINGS OF FACT

1. Petitioners, Alfred E. Esposito and Mary E. Esposito, filed a New York State Income Tax Resident Return for the year 1969. They did not include on said return receipts of a Federal pension received by Alfred D. Esposito for Federal service and they failed to account for \$2,000.00 of income received.

2. On October 29, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Alfred D. Esposito and Mary E. Esposito, adjusting their gross income to conform to a Federal audit, and accordingly issued a Notice of Deficiency in the sum of \$117.62 plus penalty and interest of \$30.04 for a total of \$147.66.

3. Petitioner, Alfred D. Esposito, claimed a deduction for a Federal pension for services performed that were not identified. He had also claimed a deduction of \$2,000.00 which he subsequently withdrew, and submitted \$88.00 on this account on October 31, 1974.

4. Petitioners, Alfred D. Esposito and Mary E. Esposito, were residents of New York State in 1969.

CONCLUSIONS OF LAW

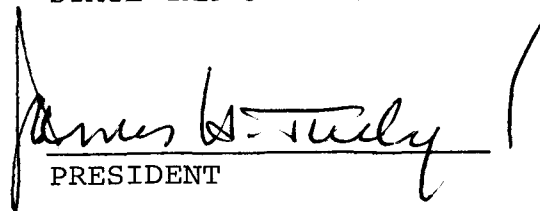
A. That a resident of New York is taxed upon his adjusted gross income as defined in the Federal Internal Revenue Code according to the meaning and intent of section 611 and 612 of the Tax Law.

B. That there is no modification of gross income with respect to the receipts of a Federal pension received by petitioner, Alfred D. Esposito, according to the meaning and intent of section 612 of the Tax Law.

C. That the petition of Alfred D. Esposito and Mary E. Esposito is denied and the Notice of Deficiency issued October 29, 1973 is sustained.

DATED: Albany, New York
September 10, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER