

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
HERBERT J. AND EILEENE W. HASLAM

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (s) 22 of the :
Tax Law for the Year(s) or Period(s) :
1971

State of New York
County of Albany

Marsina Donnini, 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 22nd day of July, 1977, she served the within Notice of Decision by (certified) mail upon Herbert J. & Eileene W. Haslam ~~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. Herbert J. Haslam
102 Haverstraw Road
Suffern, New York 10901
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~~ ~~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

22nd day of July, 1977.

Marsina Donnini

Janet Buck



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

July 22, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. & Mrs. Herbert J. Haslam
102 Haverstraw Road
Suffern, New York

Dear Mr. & Mrs. Haslam

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 the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


JOSEPH CHYROWATY
Hearing Examiner

~~cc: Petitioner's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HERBERT J. AND EILEENE W. HASLAM	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Year 1971.	:	
	:	

Petitioners, Herbert J. and Eileene W. Haslam, residing at 102 Haverstraw Road, Suffern, New York 10901, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1971 (File No. 13219).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on October 26, 1976 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq. of counsel).

ISSUE

Whether the petitioners, Herbert J. and Eileene W. Haslam, properly deducted relocation expenses in connection with the sale of a residence on their 1971 New York State resident return.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Income Tax Bureau issued a Notice of Deficiency dated November 26, 1973 against the petitioners imposing additional personal income tax on the grounds that as full-year residents of New York State, petitioners were taxable to the same extent as for Federal tax purposes. Accordingly, the subtraction claimed on Line 4 of petitioners' 1971 New York State resident tax return in the amount of \$6,076.00 was disallowed.

2. Petitioner, Herbert J. Haslam, was employed by International Business Machines, Incorporated. The petitioners were residents of California. In May, 1970, petitioner, Herbert J. Haslam, was transferred by said company to New York State. He was unable to sell his California home at that time. On January 8, 1971, he sold his home and received reimbursement from International Business Machines, Incorporated for certain expenses in connection with the sale of the California home. He was not reimbursed for all expenses incurred with the sale of the residence. The petitioner contended that the unreimbursed expenses amounted to \$6,076.00.

3. On the petitioners' Federal income tax return for 1971, a deduction for the expenses relating to the sale of his home was claimed in the sum of \$6,045.00. However, in accordance with the Internal Revenue Code, said moving expense deduction was limited to \$394.00. This amount was allowed by the Income Tax Bureau on the Notice of Deficiency issued November 26, 1973.

4. That the deduction relating to the sale of the California residence is limited to \$394.00 in accordance with section 612 of the Tax Law and 20 NYCRR 116.1.

5. That the petition of Herbert J. and Eileene W. Haslam is denied and the Notice of Deficiency in the sum of \$1,085.66 issued November 26, 1973 is sustained.

DATED: Albany, New York
July 22, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER