

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WALTER and JANET F. WEINBERG

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) on Period(s)~~ 1970:

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 22 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Walter and Janet F. Weinberg (~~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. Walter Weinberg
7 Ormond Park Road
Brookville, New York 11545
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~~ ~~XXXXXX~~ 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

22 day of August, 1977.

Marsina Donnini

Janet Mack



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

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

August 22, 1977

**Mr. & Mrs. Walter Weinberg
7 Ormond Park Road
Brookville, New York 11545**

Dear Mr. & Mrs. Weinberg:

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 **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 Chyorny
Joseph Chyorny
Hearing Examiner

cc: ~~Deputy Commissioner~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
WALTER and JANET F. WEINBERG	:	DECISION
	:	
for Redetermination of Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1970.	:	

Petitioners, Walter and Janet F. Weinberg, 7 Ormond Park Road, Brookville, New York 11545, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970.

(File No. 13687).

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on February 23, 1977 at 10:45 A.M. Petitioner appeared pro se and for his wife. The Income Tax Bureau appeared by Peter Crotty, Esq., (Francis Cosgrove, Esq. of counsel).

ISSUE

Whether fees paid for marriage counseling are deductible as medical expenses.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On January 28, 1974, the Income Tax Bureau issued a Notice of Deficiency against the petitioners in the sum of \$298.03, tax and interest due, for the year 1970. This notice resulted from the disallowance of medical expenses upon the grounds that payments made by the petitioner to a marriage counselor were not allowable medical expense deductions.

2. During the year 1970, the petitioners paid \$2,950.00 to Mrs. Esther Oshiver Fisher, a marriage and divorce counselor and a member of the American Psychological Association.

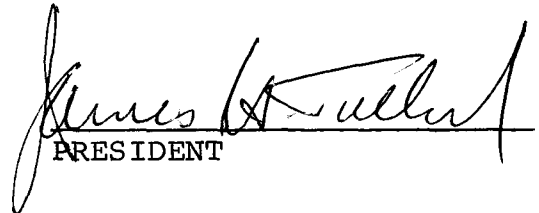
3. The petitioners had a history of psychological problems both prior to and during their marriage. They were referred to Mrs. Esther O. Fisher by Seymour B. Jacobson, M.D.

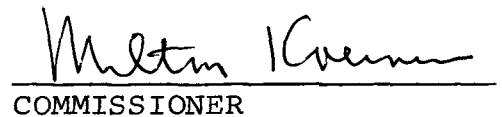
4. That the payments made by the petitioners for marriage counseling are not payments for "medical care" as defined in I.R.C. section 213(a) and are therefore not deductible medical expenses. Although these payments may have been for services interrelated with psychological counseling, the primary purpose was for marriage counseling services.

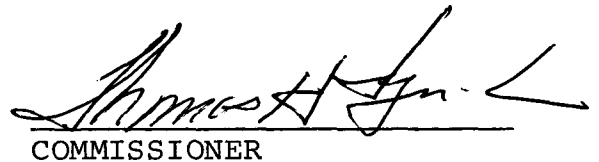
5. That the petition of Walter and Janet F. Weinberg is denied and the Notice of Deficiency issued January 28, 1974 is sustained.

DATED: Albany, New York
August 22, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER