

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALBERT IZZO and AZALEA IZZO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article ~~(x)~~ 22 of the  
Tax Law for the Year ~~(x)~~ 1973.:

State of New York  
County of Albany

John Huhn, being duly sworn, deposes and says that  
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 14th day of February, 1978, ~~he~~ served the within  
Notice of Decision by (certified) mail upon Albert & Azalea Izzo

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

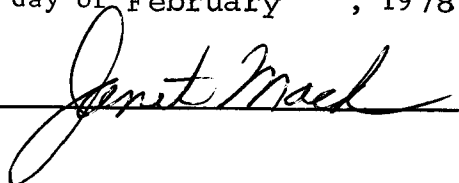
as follows: Mr. & Mrs. Albert Izzo  
666 Andover Road  
Valley Cottage, New York 10989

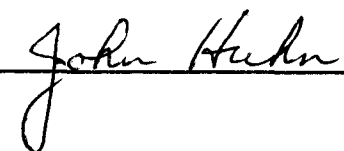
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

14th day of February, 1978







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

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

**February 14, 1978**

**Mr. & Mrs. Albert Izzo**  
**666 Andover Road**  
**Valley Cottage, New York 10989**


**Dear Mr. & Mrs. Izzo:**

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(a) **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: ~~Revisions Representation~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :

of :

ALBERT IZZO and AZALEA IZZO :

DECISION

for Redetermination of a Deficiency or  
for Refund of Personal Income Tax under :  
Article 22 of the Tax Law for the  
Year 1973. :

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Petitioners, Albert Izzo and Azalea Izzo, residing at 666 Andover Road, Valley Cottage, New York 10989, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1973 (File No. 10811).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 16, 1977 at 1:15 P.M. The petitioner Albert Izzo appeared pro se and for his wife, petitioner Azalea Izzo. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irving Atkins, Esq., of counsel).

#### ISSUE

Whether the petitioners sustained the burden of proof necessary to show that they were entitled to the contributions and miscellaneous

deductions claimed on their New York State income tax resident return for the year 1973.

FINDINGS OF FACT

1. Petitioners, Albert Izzo and Azalea Izzo, filed a New York State Income Tax Resident Return for the year 1973. On said return they claimed itemized deductions which included deductions for contributions, miscellaneous deductions and gasoline tax.

2. On February 10, 1975, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, asserting additional personal income tax in the amount of \$148.45 for the year 1973, based on the following adjustments:

<u>ITEM</u>	<u>CLAIMED</u>	<u>ALLOWED</u>	<u>ADJUSTMENTS</u>
Contributions	475.00	106.00	369.00
State Gas Tax	172.00	11.00	161.00
Miscellaneous Deductions:			
Safe Deposit Box	9.00	9.00	- 0 -
Business Publications	40.00	40.00	- 0 -
Tax Preparation Fee	50.00	50.00	- 0 -
Home Office	582.00	316.00	166.00
Home Telephone	323.00	251.00	72.00
Outside Telephone	150.00	75.00	75.00
Postage & Stationery	200.00	40.00	160.00
Depreciation on Equipment	<u>49.00</u>	<u>49.00</u>	<u>- 0 -</u>
Total Adjustments			1,003.00

3. Accordingly, the Income Tax Bureau issued a Notice of Deficiency against Albert and Azalea Izzo on October 27, 1975. Petitioners conceded the adjustment of \$161.00 with respect to the State gasoline tax.

4. During the year 1973, petitioner Albert Izzo was a real estate salesman for Florida Mackle Bros., Inc. He was compensated on a commission basis and was required to pay his own selling expenses.

5. Petitioners submitted documentary evidence to show that they were entitled to additional miscellaneous deductions in the sum of \$268.00 determined as shown below:

Business Expenses (Misc.)	\$147.00
Business Gifts	32.00
Business Stationery	<u>89.00</u>
Total	\$268.00

#### CONCLUSIONS OF LAW

A. That except as shown in Finding of Fact "5", above, petitioners have failed to sustain the burden of proof required to show that they are entitled to an allowance of contributions or miscellaneous deductions in excess of the amounts allowed in the Statement of Audit Changes dated February 10, 1975.

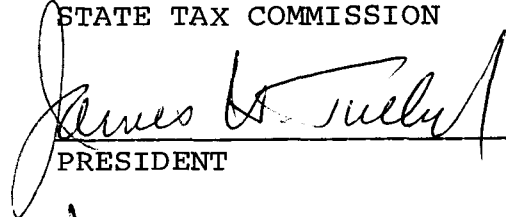
B. That the petition of Albert Izzo and Azalea Izzo is granted to the extent of reducing the adjustment of \$1,003.00 to \$735.00; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued October 27, 1975, and that except

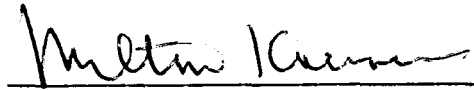
as so granted, the petition is in all other respects denied. The Notice of Deficiency, as modified, is sustained, together with such additional interest as may be lawfully owing.

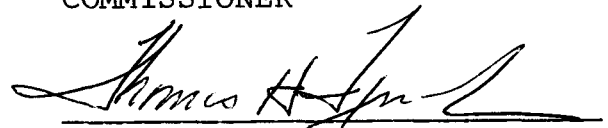
DATED: Albany, New York

February 14, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER