

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
George Miller :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Personal Income Tax :
under Article 22 of the Tax Law :
for the Year 1972. :

State of New York
County of Albany

Jay Vredenburg, 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 November, 1980, he served the within notice of Decision by certified mail upon George Miller, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

George Miller
1326 Krueger Ave.
Charleston, SC 29407

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
14th day of November, 1980.

Notary Public

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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of :
George Miller :
for Redetermination of a Deficiency or a Revision :
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Personal Income Tax :
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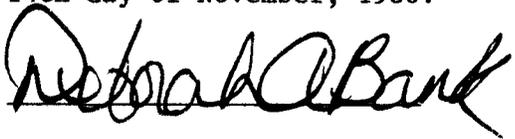
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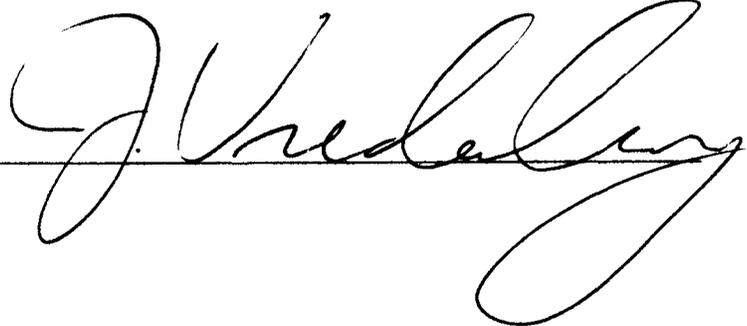
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STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

November 14, 1980

George Miller
1326 Krueger Ave.
Charleston, SC 29407

Dear Mr. Miller:

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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
GEORGE MILLER : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under Article 22 :
of the Tax Law for the year 1972. :

Petitioner, George Miller, 1326 Kruger Avenue, Charleston, South Carolina 29407, 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 1972 (File No. 12260).

A small claims hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 24, 1980 at 9:15 A.M. Petitioner appeared pro se. The Audit Division appeared by Ralph J. Vecchio, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUES

I. Whether petitioner is properly entitled to a deduction for alimony payments.

II. Whether petitioner is properly entitled to claim exemptions for his two children and mother.

FINDINGS OF FACT

1. Petitioner, George Miller, filed a New York State Income Tax Resident Return for the year 1972.

2. On September 6, 1974, the Audit Division issued a Statement of Audit Changes to petitioner wherein, as the result of his failure to appear for a

scheduled audit, adjustments were made disallowing a claimed alimony deduction of \$520.00 and exemptions claimed for petitioner's two children, Florence and George Jr., and his mother, Mary L. Abbott. Accordingly, a Notice of Deficiency was issued against petitioner on May 19, 1975, asserting additional personal income tax of \$140.52, plus interest of \$22.06 for a total due of \$162.58.

3. The issue of exemptions was disposed of during the hearing held herein since petitioner conceded the exemptions claimed for his children, while the Audit Division conceded that exemption claimed for petitioner's mother.

4. On January 6, 1955 petitioner's former spouse, Edith Miller, filed a petition alleging non-support against petitioner. As the result of said action, petitioner was ordered by the Domestic Relations Court of the City of New York-Family Court Division to pay Edith Miller \$23.00 per month commencing on February 3, 1958.

5. Petitioner testified that said amount was subsequently increased but no details were provided concerning the amount or the date such increase was purportedly ordered.

6. Petitioner, submitted court records which indicated he paid \$523.50 to Edith Miller during 1972.

7. Petitioner was ultimately divorced from Edith Miller in South Carolina during the early 1970's. A copy of the resulting decree of divorce was not available for submission at the hearing.

CONCLUSIONS OF LAW

A. That the adjustments disallowing petitioner's exemptions claimed for his children, Florence and George Jr., are sustained since they were conceded by petitioner.

B. That petitioner's exemption claimed for his mother, Mary L. Abbott, is granted since same was conceded by the Audit Division.

C. That petitioner is properly entitled to an alimony deduction of \$276.00 (\$23.00 x 12) within the meaning and intent of section 215 of the Internal Revenue Code and Article 22 of the Tax Law.

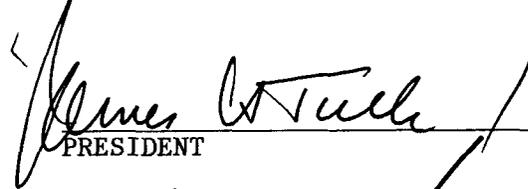
D. That the petition of George Miller is granted to the extent provided in Conclusions of Law "B" and "C" supra and that said petition is in all other respects denied.

E. That the Audit Division is hereby directed to modify the Notice of Deficiency dated May 19, 1975 to be consistent with the decision rendered herein.

DATED: Albany, New York

NOV 14 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER