

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT M. COLLEARY

For a Redetermination of a Deficiency or  
a Refund of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the (Year(s) 1963 through:  
1965.

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

State of New York  
County of Albany

Lynn Wilson , 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 21st day of June , 1972 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon ROBERT M.  
COLLEARY

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

Robert M. Colleary  
116 Beverly Road  
Upper Montclair, New Jersey

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative  
of) 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

21st day of June , 19 72

Rae Zimmerman

Lynn Wilson

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT M. COLLEARY

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Notice of Decision (or Determination) by (certified) mail upon THOMAS E.  
FLEMING (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

Thomas E. Fleming  
15 West 44th Street  
New York, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a  
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Rae Zimmerman

Lynn Wilson



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO

COMMISSION

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**June 21, 1972**

**Robert M. Colleary**  
**116 Beverly Road**  
**Upper Montclair, New Jersey**

**Dear Mr. Colleary:**  
Please take notice of the **DECISION**  
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to  
Section(s) **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.

Any 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.  
These will be referred to the proper party for  
reply.

Very truly yours,

**Nigel G. Wright**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
ROBERT M. COLLEARY : DECISION  
for a Redetermination of a Deficiency :  
or for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for :  
the Years 1963 through 1965. :

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Robert M. Colleary filed a petition for the redetermination of a deficiency in personal income tax under Article 22 of the Tax Law for the years 1963 through 1965. A hearing was held on March 10, 1970, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. Thomas E. Fleming, C.P.A. appeared for petitioner and Edward H. Best, Esq., (Francis X. Boylan, Esq., of Counsel), appeared for the Income Tax Bureau. The record of such hearing has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner, a nonresident, may allocate to out-of-state sources under regulation 20 NYCRR 131.16 part of his salary from a New York business firm because he does some work at his home.

FINDINGS OF FACT

1. Petitioner resides in Upper Montclair, New Jersey. Petitioner is employed by Robert Keeshan Associates, Incorporated at 524 West 57th Street, New York City. He is the head writer for the Captain Kangaroo television show and has a small office at the 57th Street studios of his employer.

2. On his return, petitioner claimed for each year that he worked three out of the five working days of each week for 52 weeks at his home. He allocated on the basis of 156 days spent outside the State.

3. Letters from petitioner's employer dated in 1967 assert that petitioner is required to work at home because of the distractions and interruptions at the 57th Street studio. Petitioner is not reimbursed for his expenses at home though he is reimbursed for travel away from home.

4. Petitioner deducted on his income tax returns the costs of maintaining a room of his house as an office.

5. Neither the petitioner nor anyone from his employer firm testified at the hearing. Petitioner's written contract was never produced either at the hearing or thereafter.

6. The deficiencies dated February 20, 1967, in issue, are in the following amounts: 1963, \$1,831.18 plus interest of \$312.80; 1964, \$1,479.06 plus interest of \$163.91; 1965, \$1,675.91 plus interest of \$85.17.

CONCLUSIONS OF LAW

A. Petitioner has not carried the burden of proof that his work at home was not for merely his own convenience.

DECISION

The petition is denied. The deficiencies are affirmed together with such interest, if any, as may be due under section 684 of the Tax Law.

DATED: Albany, New York

*June 21, 1972.*

STATE TAX COMMISSION

*Norman Salzman*  
COMMISSIONER

*Bruse Menley*  
COMMISSIONER

*Milton Korman*  
COMMISSIONER



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DEPARTMENT OF TAXATION AND FINANCE

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HEARING OFFICER

Enc.

cc: Petitioner's Representatives ✓  
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STATE TAX COMMISSION

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*June 21, 1972.*

STATE TAX COMMISSION

*Norman J. Salzman*  
COMMISSIONER

*Bruce M. Vercy*  
COMMISSIONER

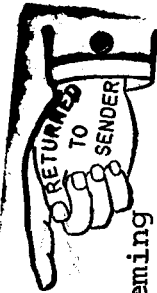
*Milton Korman*  
COMMISSIONER



AD 32 (2-70) 50M

STATE OF NEW YORK  
Department of Taxation and Finance  
STATE CAMPUS 1972  
ALBANY, N. Y. 12226

UNCLAIMED



Thomas E. Fleming

15 West 44th Street

New York, New York

*Let not fail  
6/26/72  
aw*

CERTIFIED

No. 592594

MAIL