



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214A  
STATE CAMPUS  
ALBANY, N.Y. 12226

AREA CODE 518  
457-2655, 6, 7

ADDRESS YOUR REPLY TO

March 16, 1972

Alfonso Escobedo  
Sierra Paracaima No. 820  
Mexico City D.F. 10  
Mexico

Re: Decision dated Feb. 24, 1972  
Article 22 Year: 1965

Dear Mr. Escobedo:

This acknowledges your letter regarding the recent decision of  
the State Tax Commission.

Your letter has been referred to the Litigation Unit of our  
Bureau of Law for their attention and response to your inquiry.

Very truly yours,

Lawrence A. Newman  
Hearing Officer

cc: Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ALFONSO ESCOBEDO

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) 1965

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

State of New York  
County of Albany

Martha Funaro , 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 24th day of February , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon Alfonso Escobedo

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

wrapper addressed as follows: Alfonso Escobedo  
Sierra Paracaima 820  
Mexico City, D.F. 10, Mexico

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.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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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

**February 24, 1972**

**Alphonso Escobedo  
Sierra Paracaima 820  
Mexico City D.F. 10, Mexico**

**Dear Sir:**

Please take notice of the **Decision** of  
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 690 of**  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **4 Months** after  
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 relat-  
ing hereto may be addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

**Lawrence A. Newman**  
HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

March 16, 1972

Alfonso Escobedo  
Sierra Paracaima No. 820  
Mexico City D.F. 10  
Mexico

Re: Decision dated Feb. 24, 1972  
Article 22                      Year: 1965

Dear Mr. Escobedo:

This acknowledges your letter regarding the recent decision of the State Tax Commission.

Your letter has been referred to the Litigation Unit of our Bureau of Law for their attention and response to your inquiry.

Very truly yours,

Lawrence A. Newman  
Hearing Officer

cc: Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ALFONSO ESCOBEDO	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1965.	:	

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Alfonso Escobedo petitioned for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1965.

A formal hearing was scheduled before Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission in the City of New York on February 26, 1971.

The petitioner elected to waive a hearing before the State Tax Commission and requested the issuance of a decision without the introduction of additional evidence.

#### ISSUE

Whether termination pay to a resident alien is subject to New York State income tax, and whether the imposition of a delinquency penalty was correct.

#### FINDINGS OF FACT

1. Alfonso Escobedo, and Eva A. Escobedo, his wife, filed a New York State income tax resident return for the year 1965 on November 14, 1966.

2. On December 16, 1968, the Income Tax Bureau issued a Notice of Deficiency under file numbered 49096414, for the year 1965 as follows:

Deficiency	\$691.50
Penalty for late filing	156.53
Interest to date of deficiency	<u>100.28</u>
<u>Total</u>	\$948.31
Less overpayment on return	<u>65.36</u>
Amount due	<u>\$882.95</u>

The deficiency resulted from the inclusion of terminal pay in the net income subject to the New York State income tax.

3. A petition for redetermination was timely filed.

4. Mr. Escobedo was a resident of New York, and employed by the Cyanamid Inter-American Corporation in Wayne, New Jersey, from January 1 to August 15, 1965, and during this period his earnings were \$17,452.50.

5. After August 15, 1965, and until January, 1966, Mr. Escobedo made several trips to Mexico and back to New York in an effort to find new employment.

6. Mr. Escobedo continued to be a resident alien until January, 1966, when he established a permanent home in Mexico City and surrendered his resident alien registration card at the American Embassy in that city.

7. Subsequent to August 15, 1965, Mr. Escobedo received the amount of \$7,144.50 from Cyanamid Inter-American Corporation by reason of his termination of employment, and upon which Mr. Escobedo paid taxes to the Mexican Government.

#### DECISION

A. The payments of \$7,144.50 made by the Cyanamid Inter-American Corporation to Mr. Escobedo after the termination of his services

are the result of, and attributable to, the period while the taxpayer was an employee, and subject to the New York State income tax.

B. The penalty imposed for the late filing of the income tax return is correct and proper.

C. The Notice of Deficiency is sustained and the petition is denied.

DATED: Albany, New York

*February 24, 1972*

STATE TAX COMMISSION

*William Sullivan*  
\_\_\_\_\_  
COMMISSIONER

*Bruce Manley*  
\_\_\_\_\_  
COMMISSIONER

*Milton Krenn*  
\_\_\_\_\_  
COMMISSIONER