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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE J. HELMUTH

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) 1966 and 1967

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 6th day of April , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon GEORGE J.

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

504-1/3 South 8th Street
Quincy, Illinois 62301

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

6th day of April , 1972.

Rae Zimmerman

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
April 6, 1972

Mr. George J. Helmuth
504-1/3 South 8th Street
Quincy, Illinois 62301

Dear Mr. Helmuth:

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 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 relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leisner
L. Robert Leisner

Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

GEORGE J. HELMUTH : DECISION

for a Redetermination of a Deficiency
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for
the Years 1966 and 1967. :

George J. Helmuth petitioned for a redetermination of personal income taxes for the years 1966 and 1967 under Article 22 of the Tax Law. The taxpayer submitted the case on evidence previously presented.

ISSUES

I. Were payments to Marie E. Helmuth in 1966 in the amount of \$1,720.00 deductible as alimony?

II. Was the claimed amount of \$1,181.87 auto expenses deductible for 1967, in addition to reimbursed auto expenses allowed of \$980.00?

FINDINGS OF FACT

1. A Notice of Deficiency for income taxes was issued on January 26, 1970, under file no. 84339154 and the taxpayer timely petitioned for a formal hearing.

2. The Notice of Deficiency disallowed (1) payments by petitioner to Marie E. Helmuth, the amount of \$1,720.00 which he had deducted in alimony in 1966, and (2) the claimed amount of \$1,181.87 auto expenses for 1967, in addition to reimbursed auto expenses of \$980.00.

3. The petitioner's separation agreement with Marie E. Helmuth was entered into on May 31, 1966. Petitioner claimed at least payments of \$1,720.00 before May 31, 1966, and \$3,010.00 of payments after May 31, 1966, the date of the separation agreement. It is agreed that cancelled checks substantiated such

amounts as paid.

4. The petitioner submitted a small notebook with some notations of amounts paid amounting to less than \$250.00 and the names of some companies visited, but with no mileage. The petitioner was allowed \$980.00 of reimbursed car expense. The reimbursed car expense equaled or exceeded the business mileage established by the notebook records of the petitioner. Petitioner made estimates of mileage, but they are not controlling.

CONCLUSIONS OF LAW

A. The payments of \$1,720.00 made to Marie E. Helmuth prior to the separation agreement of May 31, 1966, are not deductible as alimony.

B. The claimed amount of \$1,181.87 auto expense, in addition to allowed reimbursed auto expense of \$980.00 was not deductible.

C. The deficiencies in income taxes for 1966 and 1967 are sustained.

D. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
April 6, 1972.

STATE TAX COMMISSION

Norman Gallivan

COMMISSIONER

Bruce Manley

COMMISSIONER

Walter Kram

COMMISSIONER