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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RALPH MELTZER & MILDRED MELTZER

For a Redetermination of a Deficiency or  
a Refund of Personal Income & Unincorporated  
Taxes under Article(s) 22 & 23 of the Business  
Tax Law for the (Year(s) 1964

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 9th day of August , 19 73, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Ralph & Mildred  
Meltzer (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. Ralph Meltzer  
1827 East 24th Street  
Brooklyn, New York 11229

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

9th day of August , 1973.

Lynn Wilson

Martha Funaro



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  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION  
**Mario A. Procaccino,**  
~~ROBERT KOENIG~~ PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**August 9, 1973**

**Mr. & Mrs. Ralph Meltzer**  
**1827 East 24th Street**  
**Brooklyn, New York 11229**

**Dear Mr. & Mrs. Meltzer:**

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

Please take further notice that pursuant to  
Section(s) **690 & 722** 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,

  
**Paul B. Coburn**

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	:	
RALPH MELTZER and MILDRED MELTZER	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income and	:	
Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law	:	
for the Year 1964.	:	
	:	

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Petitioners, Ralph Meltzer and Mildred Meltzer, have filed a petition for redetermination of deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the year 1964. (File No. 12138886). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on March 23, 1971, at 11:20 A.M., and continued on May 20, 1971, at 10:45 A.M. Petitioner, Ralph Meltzer, appeared pro se and for his wife, Mildred Meltzer. The Income Tax Bureau appeared by Edward H. Best, Esq. (Albert J. Rossi, Esq., of Counsel).

ISSUE

Did petitioners, Ralph Meltzer and Mildred Meltzer, for the year 1964 substantiate deductions for business expenses totaling \$12,835.49 for personal income tax purposes and \$9,715.45 for unincorporated business tax purposes?

FINDINGS OF FACT

1. Petitioners, Ralph Meltzer and Mildred Meltzer, filed a New York State income tax resident return and a New York State unincorporated business tax return for the year 1964.

2. On March 27, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Ralph Meltzer and Mildred Meltzer, disallowing \$12,835.49 claimed by them as business expenses on their personal income tax return. The corrected taxable income became \$19,886.23. Accordingly a Notice of Deficiency was issued for the sum of \$1,212.56.

3. On March 27, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Ralph Meltzer, disallowing \$9,715.45 claimed by him as business expenses on his unincorporated business tax return. The corrected taxable income became \$14,578.13. Accordingly a Notice of Deficiency was issued for the sum of \$440.21.

4. Petitioner, Ralph Meltzer, owned and operated a business which made sewing machine attachments. He or an employee would go out and pick up a customer's sewing machine, take it to the shop for a fitting and then return it to the customer. Pickups and deliveries were made with a taxi cab. The business's gross sales for 1964 was \$97,000.00.

5. Petitioners, Ralph Meltzer and Mildred Meltzer, failed to submit documentary or other substantial evidence to prove deductions for the year 1964 in the amount of \$300.00 claimed for gifts and shows, \$333.33 claimed for depreciation of auto,

\$574.75 claimed for auto expenses and \$655.18 claimed for medical expenses.

6. Petitioners, Ralph Meltzer and Mildred Meltzer, consented to the disallowance of the \$36.00 deduction for water tax.

7. Petitioners, Ralph Meltzer and Mildred Meltzer, claimed \$8,768.43 for freight, trucking and car fare expenses. The only evidence offered to substantiate this claim was the statements by Bernard Meltzer, brother of petitioner, Ralph Meltzer, that he made the deliveries during the year 1964 with a cost of approximately \$15.00 per day for approximately 240 days during said year.

8. Cash funds required for living expenses in excess of funds available deemed to be business income were approximated to be \$2,167.80 and charged to petitioners, Ralph Meltzer and Mildred Meltzer's personal income. Petitioner, Ralph Meltzer, cashed in \$3,000.00 in savings bonds, obtained \$1,800.00 from a corporation close out and \$20.00 a week from his daughter. This was not known to the examiner when he audited petitioners, Ralph Meltzer and Mildred Meltzer's return for the year 1964.

#### CONCLUSIONS OF LAW

A. That petitioners, Ralph Meltzer and Mildred Meltzer, failed to substantiate deductions of \$300.00 for gifts and shows, \$333.33 for depreciation of auto, \$574.75 for auto expenses and \$655.18 for medical expenses since they failed to submit documentary or other sufficient evidence to support their claim.

B. That petitioners, Ralph Meltzer and Mildred Meltzer, had adequate funds over \$4,800.00 available to meet their living expenses and thus the estimate of \$2,167.80 necessary for living

expenses in excess of reported income was incorrect.


C. That petitioners, Ralph Meltzer and Mildred Meltzer, are entitled to deduct \$3,600.00 for freight, trucking and car fare expenses since business expenses of this type may be estimated by the Cohan Rule set forth in 39 F. Rep. (2d) 540.


D. That the water tax of \$36.00 was improperly deducted by petitioners, Ralph Meltzer and Mildred Meltzer, and correctly disallowed.

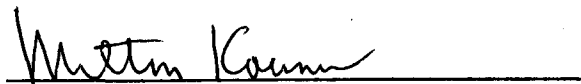
E. That the petition of Ralph Meltzer and Mildred Meltzer is granted to the extent of reducing additional personal income and unincorporated business income for the year 1964 by \$2,167.80 for necessary living expenses and \$3,600.00 for freight, trucking and car fare. The Notice of Deficiency issued for additional personal income tax is reduced from \$1,212.56 to \$542.62. The Notice of Deficiency issued for additional unincorporated business tax including interest for total deficiency is reduced from \$440.21 to \$297.51.

DATED: Albany, New York  
August 9, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER