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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ELEANOR D. WILSON

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article ~~(xx)~~ 22 of the  
Tax Law for the Year ~~(xx)~~ 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 23rd day of December, 1974, she served the within  
Notice of Decision ~~(xx Redetermination xx)~~ by (certified) mail upon ELEANOR D. WILSON

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

wrapper addressed as follows: Miss Eleanor D. Wilson  
445 West 23rd Street  
New York, New York 10011

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)~~  
~~xx~~ 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

23rd day of December, 1974.

Just Mac

Martha Funaro



STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
ELEANOR D. WILSON :  
for a Redetermination of a Deficiency : DECISION  
or for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for :  
the Year 1965. :

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Eleanor D. Wilson filed a petition for the redetermination of a deficiency issued on April 29, 1968, in the amount of \$239.30, plus interest of \$29.27 for a total of \$268.57 for personal income tax under Article 22 of the Tax Law for the year 1965.

A hearing was duly held on October 15, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioner was not represented. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Solomon Sies, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether certain claimed business expenses are "ordinary and necessary" expenses of the business of petitioner, an actress.

FINDINGS OF FACT

1. Miss Wilson is a resident of New York. She has a three-room apartment on West 23rd Street. She also has a summer home in Stockbridge, Massachusetts.

2. Miss Wilson is an actress. She appears in "road" shows and other productions outside of New York City. During 1965, she appeared in one Gore Vidal play in Washington, D.C., but it closed very quickly. Her claimed expenses in 1965 greatly exceeded her income. In other years, she has earned a variable and modest net income from acting. In 1973, she has been engaged in teaching acting at a college.

3. Petitioner deducted as business expenses many items totaling around \$2,800.00. Items totaling around \$780.00 have been allowed in full and are not in contest here. As to the disallowed items, petitioner gave testimony and exhibited a personal diary. The various items of deduction in dispute were not presented in any systematic fashion.

4(a). An amount of \$350.95 spent for costumes was spent in 1964 though it is claimed the costumes were used in 1965.

4(b). Petitioner's claim for the cost of a hair dresser and theater tickets was disallowed to the extent of \$213.20 and \$200.00, respectively. These amounts have now been conceded by the Bureau.

4(c). Petitioner claimed automobile expenses of \$500.00, taxi expenses of \$96.45 and train fare of \$55.35. These were allowed to the extent of \$100.00, \$46.45 and none. The automobile expenses were estimated at ten cents a mile for 5,000 miles. Much of petitioner's automobile travel was between her summer home in Massachusetts and either her apartment or work locations in New York City. Petitioner did drive once to a location for an acting tryout and the amount of the car expenses already

allowed is intended to cover that expense. The taxi expenses were incurred around New York City in part to travel to and from acting tryouts and to pick up scripts. No record or documentation of such expenses has been submitted. The train fare was incurred on a trip to and from Washington, D.C. to appear in a play.

4(d). Petitioner claimed the expenses of one-quarter of the rent for her New York apartment and one-quarter of the salary of a maid who cleaned that apartment. She has been allowed one-sixteenth of said rent and salary. She also claimed telephone expenses of \$222.00 and has been allowed \$172.00. Her total telephone expense at both homes was around \$350.00 plus \$100.00 for an answering service.

4(e). Petitioner claimed entertainment expenses of \$258.25, which was allowed to the extent of \$108.25 and expenses of \$32.00, for cleaning clothes which was not allowed. Petitioner testified that she entertained other actors who might have better contacts than she did and that her personal appearance was important for her work.

#### CONCLUSIONS OF LAW

A. The costume expense is disallowed as taken in the wrong year.

B. The expense of \$213.20 for theater tickets is allowed in full. The hair dressing expense is allowed in full for an additional \$200.00.

C. The automobile expense to the extent incurred between

the summer home and New York City must be deemed to be commuting expense and therefore not allowable. The taxi expenses claimed are excessive without some records for corroboration. The train fare of \$55.35 will be allowed.

D. The amounts claimed for the apartment and telephone expenses must be apportioned between business and personal use. There is no basis in the record for increasing the amounts already allowed.

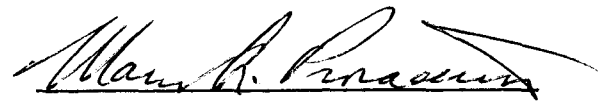
E. The entertainment expenses cannot be allowed in the absence of careful documentation. The expense of clothes cleaning is a personal expense and are not deductible.

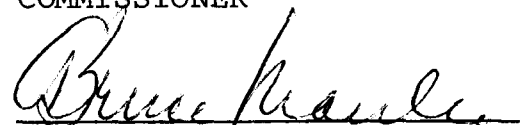
DECISION

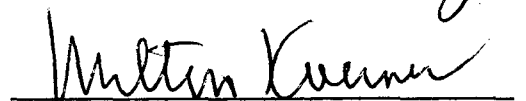
The deficiency is recomputed to be \$197.13, plus interest of \$24.11 to the date thereof, and such amount is due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York  
December 23, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER