

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT MALSHEIMER

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) 1970

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

State of New York
County of Albany

JANET MACK, 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 14th day of March, 1975, she served the within
Notice of Decision ~~(on Determination)~~ by (certified) mail upon Robert Malsheimer

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

wrapper addressed as follows: Mr. Robert Malsheimer
31 Baywood Lane
Bayport, New York 11705

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)~~
~~(s)~~ 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

14th day of March, 1975.

Katherine D. Manly

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

~~XXXXXXXXXXXXXXXXXXXX~~
Saul Heckelman, Acting President

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

A. BRUCE MANLEY
MILTON KOERNER

AREA CODE 518

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
March 14, 1975

Mr. Robert Malsheimer
31 Baywood Lane
Bayport, New York 11705

Dear Mr. Malsheimer:

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

Please take further notice that pursuant to
Section (a) **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,

Paul B. Coburn
HEARING OFFICER

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ROBERT MALSHEIMER : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1970. :

Petitioner, Robert Malsheimer, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1970.

(File No. 0-58446126). On December 23, 1974 the petitioner advised the State Tax Commission, in writing, that he desired to waive a formal hearing and to submit the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Did petitioner, Robert Malsheimer, substantiate \$1,893.00 for deductions for unreimbursed employee business expenses during the year 1970?

FINDINGS OF FACT

1. Petitioner, Robert Malsheimer, and his wife filed a New York State combined income tax resident return for the

year 1970. On line 6 of said return he listed an adjustment reducing total income by the sum of \$1,893.00. This constituted a deduction of said sum as alleged unreimbursed employee business expenses for said year as set forth on line 43 of his Federal income tax return.

2. On November 27, 1972 the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Robert Malsheimer, disallowing for the year 1970 the deduction set forth in paragraph "1" upon the grounds that said deduction was unsubstantiated. It imposed additional personal income tax in the sum of \$137.02 plus interest. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$150.92.

3. Petitioner, Robert Malsheimer, failed to submit documentary or other sufficient evidence to substantiate the alleged deduction referred to in paragraph "1". The petition together with the Federal and New York State tax returns, which constituted the documentary materials in the file, did not contain sufficient information to substantiate the alleged deduction.

CONCLUSIONS OF LAW

A. That petitioner, Robert Malsheimer, failed to substantiate \$1,893.00 for deductions for unreimbursed employee business expenses for the year 1970 since he did not submit documentary or other satisfactory evidence to support his claim, and accordingly said deduction was properly disallowed and said tax validly imposed.


B. That the petition of Robert Malsheimer, is denied and the Notice of Deficiency issued November 27, 1972 is sustained.

DATED: Albany, New York

STATE TAX COMMISSION

March 14, 1975

PRESIDENT


COMMISSIONER


COMMISSIONER