

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM STEPHENS

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) 1969 and 1970:

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

State of New York
County of Albany

MARY GROFF, 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 20th day of January, 1976, she served the within
Notice of Decision ~~(for Redetermination)~~ by ~~(certified)~~ mail upon WILLIAM STEPHENS

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

Mr. William Stephens
219-15 113th Drive
Queens Village, New York 11429

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)~~ petitioner.

Sworn to before me this

20th day of January, 1976.

Janet Mack

Mary Groff

STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12227

CERTIFIED
No. 403041
MAIL

Unclassified
Insufficient information
No such office in state
Do not return in this envelope

Mr. William Stephens

219-15 118th Drive

Queens Village, New York 11429

Wm Stephens

1-15

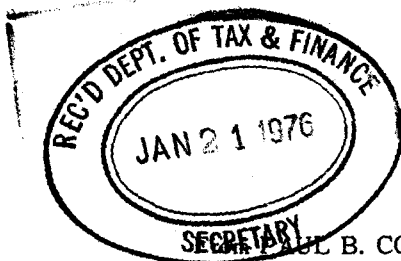
FINAL NOTICE

DEPARTMENT OF TAXATION AND FINANCE

To Joyce.

Remailed regular mail.

1/20/76



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM STEPHENS

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

For a Redetermination of a Deficiency or
a Refund of Personal Income Tax
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year(s) 1969 and 1970.:

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 29th day of December, 1975, she served the within
Notice of Decision ~~for determination of~~ by (certified) mail upon William Stephens

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

wrapper addressed as follows: Mr. William Stephens
219-15 113th Drive
Queens Village, New York 11429

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

29th day of December, 1975.

Mary Gross

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM STEPHENS

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

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) 1969 and 1970.:

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 29th day of December, 1975, she served the within
Notice of Decision ~~(on Determination)~~ by (certified) mail upon Charles Becker
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Mr. Charles Becker
P.O. Box 1185
Fort Lee, New Jersey 07024

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

29th day of December, 1975.

Mary Hoff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
JAMES H. TULLY, JR., PRESIDENT
MILTON KOERNER

ADDRESS YOUR REPLY TO
Mr. Wright
Mr. Leisner
Mr. Coburn
(518) 457-3850

DATED: Albany, New York
December 29, 1975

Mr. William Stephens
219-15 113th Drive
Queens Village, New York 11429

Dear Mr. Stephens:

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: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE TAX COMMISSION

In the Matter of the Petition :
of :
WILLIAM STEPHENS : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Years 1969 and 1970.

Petitioner, William Stephens, 219-15 113th Drive, Queens Village, New York 11429, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970. (File No. 0-56853828). The petitioner waived in writing a formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file.

Was petitioner, William Stephens, entitled to deductions for amounts expended for meals, lodging and transportation while he worked away from Queens County, New York? Pursuant to section 162(a)(2), I.R.C.

1. Petitioner, William Stephens, filed New York State and Federal income tax returns for the years 1969 and 1970.

2. On February 26, 1973, the Income Tax Bureau issued a Statment of Audit Changes against the petitioner, William Stephens, determining that additional income in the amount of \$6,500.00 and \$3,875.00 should have been reported for the years 1969 and 1970, respectively. A Notice of Deficiency for additional tax was issued in the total amount of \$744.62.

3. Petitioner was employed during 1969 and 1970 by Foster-Lipkin Corporation in Albany, New York for approximately 19 months during the tax years in question. During this period, the petitioner maintained a permanent residence at 219-15, 113th Drive, Queens Village, New York. Prior to his Albany employment, the petitioner's tax home was the Queens Village area.

4. While working in Albany, the petitioner received \$125.00 per week from Foster-Lipkin Corporation to reimburse the petitioner for expenses incurred for travel, lodging and meals. The petitioner worked on a daily or weekly basis. There was no definite, anticipated duration for the Albany work assignment.

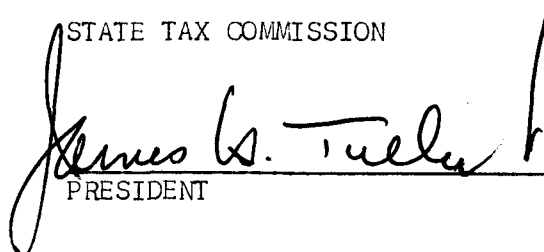
CONCLUSIONS OF LAW

A. That, the petitioner, William Stephens, is liable for the additional tax assessed. The petitioner worked in Albany for approximately 19 months. For purposes of the travel expenses deduction, an employment of actual duration of more than one year at a particular location is strongly indicative of a presence beyond a temporary period. The lack of an anticipated duration for the employment period underscores the indefinite nature of the employment. The employment was not temporary and cannot be characterized as "away from home" for the purposes of section 162(a)(2), I.R.C. Albany, New York must be considered as the petitioner's tax home for travel expense purposes.

B. That, the petition is denied.

DATED: Albany, New York
December 29, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER