

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DAVID & DOROTHY DIBNER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (s) 22 of the :
Tax Law for the Year (s) ~~xxxxxx~~ ~~xxxxxx~~ :
1965.

State of New York
County of Albany

Donna Scranton, 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 16th day of August, 1976, she served the within Notice of Decision by (certified) mail upon David & Dorothy Dibner (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. and Mrs. David Dibner
80 Winding Way
West Orange, New Jersey
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of the~~) 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

16th day of August, 1976.

Donna Scranton

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DAVID & DOROTHY DIBNER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year ~~(s) or Period(s)~~ :
1965.

State of New York
County of Albany

Donna Scranton, 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 16th day of August, 1976, she served the within Notice of Decision by (certified) mail upon Frederick C. Lynch (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Frederick C. Lynch
D'Arcangelo, Clark and Company
210 Harrison Avenue
Harrison, New York 10528
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative of the) 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

16th day of August, 1976

Donna Scranton

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

August 16, 1976

TELEPHONE: (518) 457-3850

Mr. and Mrs. David Dibner
80 Winding Way
West Orange, New Jersey

Dear Mr. and Mrs. Dibner:

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

Please take further notice that pursuant to
Section(8) 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.

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. They
will be referred to the proper party for reply.

Very truly yours,

FRANK J. PUCCIA
SUPERVISOR OF SMALL
CLAIMS HEARINGS

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of

DAVID & DOROTHY DIBNER

DECISION

for a Redetermination of a Deficiency or
for Refund of Personal Income Taxes
under Article 22 of the Tax Law for the
Year 1965.

Petitioners, David and Dorothy Dibner, 80 Winding Way,
West Orange, New Jersey, filed a petition for redetermination
of a deficiency or for refund of personal income tax under
Article 22 of the Tax Law for 1965. (File No. 5-48015758.)
On March 19, 1976, petitioners advised the State Tax Commission
in writing that they desired to waive a small claims hearing
and to submit the case to the State Tax Commission upon the
entire record contained in the file.

ISSUE

Was the education expense **claimed**, incurred to maintain
and improve skills required in petitioner's trade or business,
or was it personal in nature and to fulfill general educational
ambitions.

FINDINGS OF FACT

1. Petitioner timely filed a 1965 return including a
deduction for educational expense. The Income Tax Bureau held
that the education expense was personal in nature in that it
was incurred to fulfill general educational ambitions.

2. Petitioner was an art teacher since 1961 and had met all minimum requirements for her position. The study courses taken, were all related to teaching art. The studies did not effect her salary status or position. Petitioner's only trade or business was teaching art.

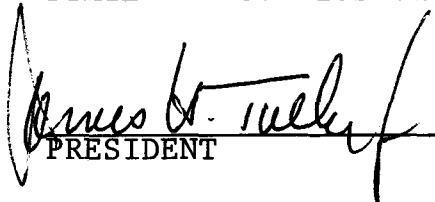
CONCLUSIONS OF LAW

The education expense is deductible since it was undertaken to maintain and improve a skill required by the individual in her employment under section 162 of the Internal Revenue Code.

The petition of David and Dorothy Dibner is granted and the Notice of Deficiency is cancelled.

DATED: Albany, New York
August 16, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER