

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CARL and LILLIAN KRAUSHAR

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 ~~(xxxxxx Period(s))~~ 1972. :

State of New York
County of Albany

Catherine Steele, 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 4th day of October, 1976, she served the within
Notice of Decision by (certified) mail upon Carl & Lillian Kraushar

~~(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. Carl Kraushar
128 Claflin Boulevard
Franklin Square, New York 11010

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

4th day of October, 1976.

Catherine Steele

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

October 4, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. Carl Kraushar
128 Claflin Boulevard
Franklin Square, New York 11010

Dear Mr. & Mrs. Kraushar:

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

Please take further notice that pursuant to
Section ~~601~~ **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

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Remotely from the Department of Taxation~~

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
CARL and LILLIAN KRAUSHAR	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1972.	:	

Petitioners, Carl and Lillian Kraushar, 128 Claflin Boulevard, Franklin Square, New York 11010, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for 1972. (File No. 2-13839545). A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 8, 1976. Petitioner appeared pro se and for his wife, petitioner, Lillian Kraushar. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levit, Esq. of counsel).

ISSUE

Did the amount claimed by the petitioner as an employee business expense constitute a proper deduction for the tax year 1972?

FINDINGS OF FACT

1. Petitioner filed a New York State income tax resident return for 1972, whereby he deducted, as an employee business expense, the amount of transportation expenses in excess of the amount reimbursed by his employer. This excess amount represented expenses for automobile transportation from the petitioner's personal residence to his place of employment. Upon audit, the Income Tax Bureau issued a deficiency disallowing the excess automobile expenses claimed.

2. Petitioner was the Assistant Director for Occupational Education at the Mid-Westchester Center for Occupational Education located at 65 Grasslands Road, Valhalla, New York. His duties required him to visit different locations within a ten-mile radius and to participate in periodic meetings with school officials of 33 different school districts.

3. Since the petitioner needed his automobile to carry out his various duties, he drove his automobile everyday to and from his home and his place of employment.

4. Accordingly, the excess amount deducted over reimbursements was a total of \$2,486.08, which consisted of automobile expenses of \$2,346.48 and tolls of \$360.00, less reimbursements of \$220.40.

CONCLUSIONS OF LAW

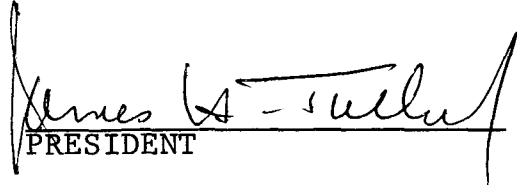
A. The nature of the transportation expenses claimed is held to be commutation expense. Accordingly, commuting expenses are non-deductible personal expenses within the meaning and intent of Internal Revenue Regulation section 1.162-2(E).

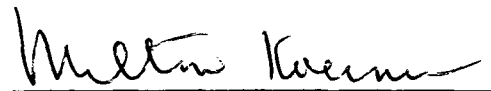
- 3 -

B. The petition of Carl and Lillian Kraushar is denied and the Notice of Deficiency issued September 30, 1974, is sustained.

DATED: Albany, New York
October 4, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER