

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WALTER KUBILUS AND ANN KUBILUS

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

State of New York
County of Albany

Marsina Donnini, 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 27th day of July, 19 77, she served the within Notice of Decision by (certified) mail upon Walter Kubilus & Ann Kubilus (~~representative of the~~) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Walter Kubilus
2063 Seaford Avenue
Seaford, New York 11783

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
27th day of July, 19 77

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

July 27, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. & Mrs. Walter Kubilus
2063 Seaford Avenue
Seaford, New York 11783

Dear Mr. & Mrs. Kubilus:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywat
Hearing Examiner

cc: ~~XXXXXXXXXXXXXXXXXXXX~~
Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
WALTER KUBILUS AND ANN KUBILUS : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Year 1972. :
:

Petitioners, Walter Kubilus and Ann Kubilus, residing at 2063 Seaford Avenue, Seaford, New York 11783, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1972. (File No. 00390).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on February 9, 1977 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner, Walter Kubilus, appeared pro se and for his wife, petitioner, Ann Kubilus. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

ISSUE

Whether petitioners, Walter Kubilus and Ann Kubilus, are entitled to deduct amounts claimed as a casualty loss under section 165(c)(3) of the Internal Revenue Code for the year 1972.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The petitioners claimed a casualty loss of \$1,597.00 less the \$100.00 limitation for the year 1972 in connection with unreimbursed tuition. The Income Tax Bureau disallowed said loss.

2. The loss at issue represents unreimbursed tuition payments made by petitioners, Walter Kubilus and Ann Kubilus, on behalf of their son, who was unable to complete the 1972 fall semester at the University of New Hampshire due to a sudden knee injury. Consequently, petitioner's son did not receive credit for said semester and petitioners were not fully reimbursed for the tuition they had paid.

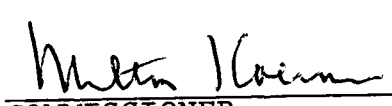
3. The aforesaid loss does not qualify as a casualty loss under section 165 of the Internal Revenue Code.

4. The petition of Walter Kubilus and Ann Kubilus is denied and the Notice of Deficiency issued against them on July 29, 1974 in the sum of \$203.95 is sustained.

DATED: Albany, New York
July 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER