

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

STEPHEN PLATT

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) or Period(s) :
1971

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 15 day of July, 19 77, she served the within NOTICE OF DECISION by (certified) mail upon Stephen Platt ~~representative of~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Stephen Platt
16 Dorchester Road
Rockville Center, NY 11570
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

15 day of July, 19 77

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
STEPHEN PLATT

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) or Period(s) :
1971

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 15 day of July, 1977, she served the within NOTICE OF DECISION by (certified) mail upon Seymour H. Cohen, CPA (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Seymour H. Cohen, CPA
Cohen, Kuperman & Co.
570 Seventh Avenue
New York, New York 10018
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

15 day of July, 1977.

Marsina Donnini

Just Mark



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

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

July 15, 1977

Mr. Stephen Platt
16 Dorchester Road
Rockville Center, NY 11570

Dear Mr. Platt

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 Chyrywaty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

of

STEPHEN PLATT

for Redetermination of a Deficiency
or for Refund of Personal Income
Taxes under Article 22 of the Tax
Law for the Year 1971.

DECISION

Petitioner, Stephen Platt, residing at 16 Dorchester Road, Rockville Center, New York 11570, has 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 1971. (File No. 13617).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on March 23, 1977, at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Seymour H. Cohen, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Whether the contributions and business expenses claimed on the petitioner's 1971 New York State income tax return are deductible and/or fully documented.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Income Tax Bureau issued a Notice of Deficiency dated September 30, 1974 in the amount of \$481.19 on petitioner's 1971 New York State personal income tax return. Adjustments were made as follows:

<u>ITEM</u>	<u>CLAIMED</u>	<u>ALLOWED</u>	<u>ADJUSTMENT</u>
Contributions	\$1,216.00	\$ 750.00	\$ 466.00
Business Expenses	4,911.35	2,455.67	2,455.68
Medical Expense Adjustment (3% of \$2,455.68)			73.67
Total Adjustment			<u>\$ 2,995.35</u>

2. Petitioner, Stephen Platt, was vice-president in charge of national sales for the magazine division of the American Can Company during the year 1971. He was reimbursed for normal business expenses and certain automobile expenses such as plant visitations and rental cars when necessary. He was not reimbursed for home entertainment and weekend activities such as golf, swim clubs, etc.

3. The petitioner submitted additional documentary evidence in the sum of \$116.00 for the claimed contributions.

4. Petitioner submitted a diary, as evidence for the claimed business expenses which contained a limited amount of information, along with a letter from his employer relating to his duties and their reimbursement policy.

5. That the petitioner, Stephen Platt, has failed to meet the substantiation requirements for the claimed business expenses in accordance with Internal Revenue Regulation 1.274-5 and has failed to sustain the burden of proof in accordance with section 689(e) of the Tax Law.

6. That petitioner, Stephen Platt, is allowed an additional deduction for contributions in the amount of \$116.00.

7. That the Income Tax Bureau is hereby directed to modify the Notice of Deficiency issued September 30, 1974 by reducing the total adjustment from \$2,995.35 to \$2,879.35.

8. That the petition of Stephen Platt is granted only to the extent as shown in paragraph 6 above and the Notice of Deficiency, as modified, is in all other respects sustained.

DATED: Albany, New York
July 15, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER