

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

ARTHUR L. COHEN

For a Redetermination of a Deficiency or  
a Refund of Sales  
Taxes under Article(s) 28 of the  
Tax Law for ~~the (Year(s))~~ March 31, 1970

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

State of New York  
County of Albany

Martha Funaro, 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 30th day of March, 19 72, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Arthur L. Cohen

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

wrapper addressed as follows: Arthur L. Cohen  
40 South Cole Avenue  
Spring Valley, New York 10977

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

30th day of March, 1972

Rae Zimmerman

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
BUILDING 9, ROOM 214A  
STATE CAMPUS  
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

AREA CODE 51B  
457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

March 30, 1972

Arthur L. Cohen  
40 South Cole Avenue  
Spring Valley, New York 10977

Dear Sir:

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

Please take further notice that pursuant to **section 1138**  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **4 Months** after  
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 relat-  
ing hereto may be addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

**Lawrence A. Newman**  
HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

## STATE TAX COMMISSION

In the Matter of the Application :  
:  
of :  
:  
ARTHUR L. COHEN : DETERMINATION  
:  
for Refund of Sales and Use Taxes under :  
Article 28 of the Tax Law Relating to :  
a Transaction Occurring on March 31, :  
1970. :  
:

## ISSUE

## FINDINGS OF FACT

1. The applicant, Arthur L. Cohen, was employed as a salesman for Kem Manufacturing Corporation of Tucker, Georgia. In recognition of his successful sales efforts, Kem transferred a used 1969 Cadillac automobile which it owned, to the applicant during the year 1970. The value of the automobile at the time of transfer was estimated as \$5,000, which amount was reported as additional earnings for the

year 1970 for income tax purposes by the applicant.

2. On March 31, 1970, the applicant registered the vehicle with the New York State Department of Motor Vehicles. Prior thereto, he completed the statement of transaction, casual sale of motor vehicle for sales and use tax purposes. The applicant claimed that the vehicle was acquired as a gift and no sales or use tax was due.

3. As a result of later correspondence by the Sales Tax Bureau, the applicant paid the sum of \$149.94 in sales taxes and late payment charge on August 4, 1970. The tax was computed on a fair market value of the automobile of \$4,900. On August 31, 1970, the applicant filed the equivalent of a claim for refund which the Sales Tax Bureau has denied.

DETERMINATION

A. The transfer of a motor vehicle from an employer to an employee, as additional compensation to the employee, is a sale within the meaning and intent of Article 28 of the Tax Law, and the fair market value of the vehicle is subject to the sales and use tax.

B. The claim for refund is denied.

DATED: Albany, New York  
*March 30, 1972*

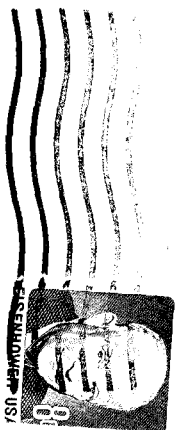
STATE TAX COMMISSION

*Norman Gellman*  
\_\_\_\_\_  
COMMISSIONER

*Charles Manley*  
\_\_\_\_\_  
COMMISSIONER

*Milton Koerner*  
\_\_\_\_\_  
COMMISSIONER

Letter to John  
He will love  
Spring Valley N.Y. 12997



Mr. Lawrence A. Hillman  
Dept of Education and Technology  
Building 9 Room 2147  
State University  
Albany, N.Y. 12214

April 5, 1972

Mr. Arthur L. Cohen  
40 South Cole Avenue  
Spring Valley, New York 10977

Re: Determination of the State Tax  
Commission

Dated: March 30, 1972

Dear Mr. Cohen:

Your letter of April 1, 1972, mentions that you take exception to the findings and determination as issued by the Commission.

In this event, the review that you would seek is afforded under the provisions of Article 78 of the Civil Practice Law and Rules. As mentioned in my letter accompanying the determination, such action should be commenced within four months of the date of the mailing of the determination.

Very truly yours,

Lawrence A. Newman  
Hearing Officer

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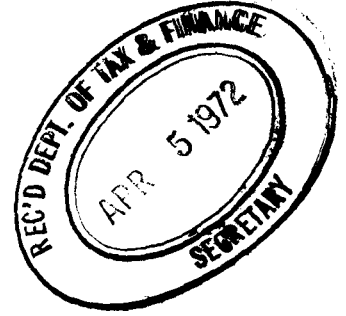
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April 1, 1972

Mr. Laurence A. Newman  
Dept of Taxation and Finance  
Building 4 Room 214 A  
Albany New York 12246



Dear Mr. Newman,

I write to acknowledge your response dated March 30, 1972 regarding my request for a refund pertaining to the value of a used automobile transferred to an employee is subject to the sales and use tax.

I take exception to your findings and state that if the decision stands, that you must tax my weekly income, as you did the automobile (considered income) thus subject to the sales and use tax.

Sincerely  
Arthur R. Corbett

Arthur J. Finkel  
44 So. Hill Avenue

Spring Valley New York 10977

Answers please  
at 6089

The Bureau of National  
Department of Education  
Building 9 Room 2111  
State Capital  
Albany, New York 12224





**April 11, 1972**

**Arthur L. Cohen  
40 South Cole Avenue  
Spring Valley, New York 10977**

**Dear Mr. Cohen**

**Re: Arthur L. Cohen  
Decision dated March 30, 1972  
Article 28 - March 31, 1970**

**This acknowledges your letter regarding the recent  
decision of the State Tax Commission.**

**Your letter has been referred to the Litigation Unit  
of our Bureau of Law for their attention and response to  
your inquiry.**

**Very truly yours,**

**Lawrence A. Newman  
Hearing Officer**

**cc: James Scott  
Law Bureau**

April 11, 1937

Arthur L. Brown  
44 North Cole Avenue  
Spring Valley, New York 10577

Dear Mr. Brown:

Re: Arthur L. Brown  
Excluded from March 30, 1937  
Article 23 - No. 23, 1937

This letter is in response to your letter regarding the matter  
mentioned in the State Tax Commission.

Your letter has been referred to the State Tax Commission  
for their consideration and response to  
your inquiry.

Very truly yours,

Lawrence A. Brown  
Taxing Officer

cc: James Brown  
Law Bureau

Apr. 6, 1978

Mr. Lawrence G. Newman  
Dept of Taxation and Finance  
Albany, New York 12256  
Dear Mr. Newman,

I am formally requesting a review  
pertaining to the findings and determination  
as issued by the Commission.

Awaiting your instructions appertaining  
to the above.

Very truly yours,  
Arthur L. Cohen

Apr 6, 1978

Mr Lawrence G. Newman  
Dept of Taxation and Finance  
Albany, New York 12256

Dear Mr. Newman,

I am formally requesting a report  
pertaining to the findings and determination  
as issued by the Commission.

Awaiting your instructions appertaining  
to the above.

Very truly yours,  
Arthur L. Cohen