

POOR
QUALITY
THE FOLLOWING
DOCUMENT (S)
ARE
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

Income Tax Determinations
**BUREAU OF LAW
MEMORANDUM**

A - Z
O'Donnell, William J. B.

TO: Commissioners Murphy, Macduff and Conlon

FROM: Francis V. Dow, Hearing Officer

**SUBJECT: In the Matter of the Petition of
WILLIAM F. B. O'DONNELL
For a Redetermination of a Deficiency
and For Refund of Personal Income Taxes
Under Article 22 of the Tax Law for the
Year 1962**

A hearing with reference to the above matter was scheduled before me on June 21, 1967 and October 3, 1967. The taxpayer defaulted on both occasions. Subsequently a letter was sent to his representative affording the taxpayer an opportunity to have a hearing scheduled in Albany which was declined.

The taxpayer filed an income tax return for the year 1962 in which he reported salary income of \$26,000 from which he deducted business expenses of \$5,767.95 and travel and transportation expenses of \$2,807.27 and claimed a refund of \$693.12. On November 9, 1964 a notice of deficiency and statement of audit changes (File No. 3-5518309) was issued determining additional tax and interest due in the sum of \$179.77 on the basis that deductions in the sum of \$8,575.22 claimed for business, travel and entertainment expenses were disallowed because the taxpayer did not reply to the Income Tax Bureau's letter requesting completion of questionnaire forms with regard to personal service compensation and travel and entertainment expenses claimed. The taxpayer's representative, at the preliminary hearings held in this matter, substantiated business expenses in the sum of \$2,787.41 which had been disallowed.

The taxpayer claimed that he could substantiate all of his deductions. However, he failed to submit any further evidence to substantiate them. Accordingly, I am of the opinion that the claimed deductions in the amount of \$5,787.81 (\$8,575.22 totaling deductions claimed less \$2,787.41 deductions substantiated) should be disallowed.

For the reasons stated above, I recommend that the decision of the Tax Commission in the above matter partially granting the taxpayer's petition to the extent of cancelling the deficiency of \$179.77 and allowing refund of \$114.43 be substantially in the form submitted herewith.

/s/

FRANCIS B. DOW

Hearing Officer

FVD:ac
Enc.

November 15, 1967

11-21-67

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE PETITION

OF

WILLIAM F. B. O'DONNELL

**FOR A REDETERMINATION OF A DEFICIENCY
AND FOR REFUND OF PERSONAL INCOME TAXES
UNDER ARTICLE 22 OF THE TAX LAW FOR THE
YEAR 1962**

William F. B. O'Donnell, the taxpayer herein, having filed a petition for a redetermination of a deficiency and for refund of personal income taxes under Article 22 of the Tax Law for the year 1962 and a hearing having been scheduled in connection therewith at the office of the State Tax Commission, 80 Centre Street, New York, New York for June 21, 1967 and October 3, 1967 before Francis V. Dow, Hearing Officer of the Department of Taxation and Finance, the taxpayer having defaulted in appearance at both scheduled hearings and the taxpayer having declined to appear at the office of the State Tax Commission in Albany, New York for a hearing and the matter having been reviewed and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer filed an income tax return for the year 1962 in which he reported salary income of \$26,000 and deducted therefrom business expenses of \$5,767.95 and travel and transportation expenses of \$2,807.27 in computing his New York taxable income; that the taxpayer claimed a refund in the amount of \$693.12 for overpayment of tax withheld from his salary.

(2) That a notice of deficiency and statement of audit changes (File No. 3-8818509) were issued on November 9, 1968 determining additional personal income tax and interest due in the sum of \$179.77

on the basis that deductions for business expenses and travel and entertainment expenses in the sum of \$8,575.22 were disallowed in computing New York taxable income.

(3) That at preliminary hearings the taxpayer established business expense deductions which had been previously disallowed as follows:

| | | |
|--|------------|------------|
| (1) Home entertainment deduction allowed | | \$2,000.00 |
| (2) Travel Expenses: | | |
| Gasoline and oil | \$ 693.12 | |
| Repairs and services | \$1,012.95 | |
| Advertising | \$ 57.46 | |
| Garage and parking | \$ 560.00 | |
| Insurance | \$ 214.11 | |
| Total | \$2,537.64 | |
| 40% business connected | \$1,014.90 | |
| Reimbursed at 6¢ per mile | \$ 522.04 | |
| Additional deduction allowed | | \$ 415.86 |
| (3) Automobile depreciation: | | |
| Cost of Corvette | \$4,150.00 | |
| 1961 depreciation | \$1,391.33 | |
| Undepreciated cost | \$2,758.67 | |
| 1962 depreciation | \$ 520.00 | |
| 40% business connected | | \$ 371.92 |
| Total | | \$2,787.41 |

That the taxpayer failed to submit any documentary or other sufficient evidence to substantiate any additional deductions claimed for business, travel and transportation expenses.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

DECIDES:

(A) That by virtue of finding "(3)" above, the taxpayer's income tax liability for the year 1962 is recomputed as follows:

| | |
|---|-------------|
| New York taxable income previously adjusted | \$24,295.11 |
| Total deductions for expenses allowed | \$ 2,787.41 |
| Corrected taxable income | \$21,507.70 |
| Tax on above | \$ 1,910.77 |
| Less statutory credit | \$ 10.00 |
| Corrected tax due | \$ 1,900.77 |
| Tax withheld | \$ 1,815.20 |
| Overpayment | \$ 114.43 |

(B) That, accordingly, the taxpayer's petition for a redetermination of a deficiency and for refund of personal income taxes for the year 1962 is hereby granted to the extent of cancelling the deficiency of \$179.77 in full and allowing the taxpayer a refund for overpayment of tax in the amount of \$114.43 with interest and that the taxpayer's petition except to the extent herein granted is denied.

DATED: Albany, New York on this 28th day of November , 1967.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

PRESIDENT

COMMISSIONER

/s/

WALTER MACLYN CONLON

COMMISSIONER