

STATE OF NEW YORK
STATE TAX COMMISSION

Kuser
P.I - 1970

In the Matter of the Petition

of
Edward G. Kuser

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1964

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

State of New York
County of Albany

Claire A. Draves , 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 21st day of December , 1970 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Edward G. Kuser
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Edward G. Kuser
95 Circle Drive
Hastings - on - Hudson New York 10706
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

21st day of December, 1970

Edward G. Kuser

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Edward G. Kuser

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1961

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

State of New York
County of Albany

Claire A. Draves, 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 21st day of December, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Edward G. Kuser (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Edward G. Kuser
95 Circle Drive
Hastings - on - Hudson, New York 10706
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

21st day of December, 1970

Edward G. Kuser

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Edward G. Kuser

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1961

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

State of New York
County of Albany

Claire A. Draves, 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 21th day of December, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon John W. Rehfus, Esq.

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: John W. Rehfus, Esq.
311 State Street
Albany, New York 12210

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

21th day of Decmeber 1970

Edward G. Kuser

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Edward G. Kuser

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1964

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

State of New York
County of Albany

Claire A. Draves, 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 21th day of December, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon John W. Rehfus, Esq.

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

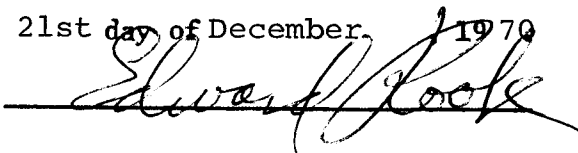
wrapper addressed as follows: John W. Rehfus, Esq.
311 State Street
Albany, New York 12210

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

21st day of December, 1970





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
EDWARD G. KUSER : DECISION
for a Redetermination of a Deficiency :
or for a refund of Personal Income :
Taxes under Article 22 of the Tax Law :
for the year 1964 :
:

Taxpayer petitioned for a redetermination of a deficiency or for refund of personal income taxes under Atticle 22 of the Tax Law for the year 1964. A formal hearing was held before Lawrence A. Newman, hearing officer, at the offices of the State Tax Commission in the City of Albany. The petitioner appeared, and the Income Tax Bureau was represented by Edward H. Best, Esq. (Solomon Sies, Esq. of counsel).

FINDINGS OF FACT

1. Taxpayer and his wife, Margaret, filed a joint New York State income tax return for the year 1964.

2. On November 27, 1967, the Department of Taxation and Finance issued a notice of deficiency under file numbered 29204282 in the amount of \$49.01. The deficiency was based on a finding by the Department that the taxpayer was unable to substantiate his contributions claimed.

3. Edward G. Kuser claimed in contributions an amount of \$1448.30. The Income Tax Bureau disallowed \$529.50. Taxpayer filed a timely petition and included within additional expense deductions of \$642.39 incurred from his keeping of an office as an officer and stockholder of Will-Ed Inc. a Virginia corporation.

4. Taxpayer failed to substantiate his claim of \$642.39 with additional proof.

DECISION


A. The contributions are not substantiated and are not allowed as a deduction. The other business expenses claimed are not substantiated and are not allowed as a deduction.

B. The petition is denied and the assessment is hereby sustained.

DATED: Albany, New York
December 17, 1978

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
EDWARD G. KUSER	:	DECISION
for a Redetermination of a deficiency	:	
or for a Refund of Personal Income	:	
Taxes under Article 22 of the Tax	:	
Law for the year 1961	:	

Edward G. Kuser petitioned for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1961. A formal hearing was held before Lawrence A. Newman, Hearing Officer, at the offices of the State Tax Commission, in the City of Albany on December 17, 1969. The petitioner appeared through John W. Rehfus, Esq.; and the Income Tax Bureau was represented by Edward H. Best, Esq. (Solomon Sies, Esq., of counsel).

FINDINGS OF FACT

1. Taxpayer and his wife filed a joint New York State income tax return for the year 1961.
2. On March 1, 1965, the Department of Taxation and Finance disallowed a claim for refund, file numbered 1-8165098 in the amount of \$1,275.74.
3. On July 20, 1960, the taxpayer, Edward G. Kuser, inherited 150 shares of Peter Doelger, Inc. These shares were valued at \$750 per share on the New York Estate tax return. The corporation was liquidated in February 1961 and the distributive value of each share was \$877.72 whereupon the taxpayer reported a capital gain on his personal income tax return for 1961. In November 1962 the Surrogate of Westchester County refused to accept the value of \$750 per share for estate tax purposes. The court directed an reevaluation of

\$877.72 resulting in an additional estate tax in the sum of \$2,918.29 which was paid. Taxpayer thereupon filed an amended New York State income tax return for 1961. By using the revised value of \$877.72 per share he eliminated entirely the capital gain reported on his original 1961 income tax return.

4. Taxpayer did not amend his federal income tax return for 1961, upon which he reported a cost value of \$750 per share.

5. Section 612 of Article 22 of the Tax Law provides that the New York adjusted gross income of a resident is the same as federal adjusted gross income with modification as required by Section 612.

6. The adjusted cost basis by the taxpayer pursuant to his amended return does not come within the modification specified in Section 612 of Article 22 of the Tax Law (in effect for the year 1961).

7. A portion of the refund was shown as a credit on the tax return for 1962. The Income Tax Bureau disallowed the credit on the return for 1962.

DECISION

A. The taxpayer's cost basis of the shares of stock in Peter Doelger, Inc. for New York State income tax purposes is \$750 per share.

B. The amended return filed by the taxpayer for 1961 is erroneous.

C. The claim for refund for 1961 is therefore not correct and is denied.

D. The claim for credit for 1962 resulting from the taxpayer's recomputation is erroneous and is denied.

DATED: Albany, New York

December 17, 1970

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Masley
COMMISSIONER

William K. Kenna
COMMISSIONER