

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DENES BUTHY

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) 1970

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 13th day of August, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon Denes Buthy

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

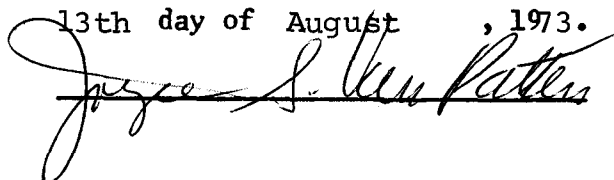
wrapper addressed as follows: Reverend Denes Buthy
1035 Grand Street
Buffalo, New York 14207


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

13th day of August, 1973.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
Mario A. Procaccino,
~~XXXXXXXXXXXX~~ PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York
August 13, 1973

Reverend Denes Buthy
1035 Grand Street
Buffalo, New York 14207

Dear Reverend Buthy:

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

Please take further notice that pursuant to
Section(s) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 Months**
from 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 relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

L. Robert Leisner
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
DENES BUTHY	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1970.	:	

Denes Buthy petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1970.

A formal hearing was held at the offices of the State Tax Commission, Buffalo, New York, on February 5, 1973, before L. Robert Leisner, Hearing Officer. The taxpayer appeared personally and the Income Tax Bureau was represented by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of Counsel).

ISSUES

I. Was the taxpayer entitled to a deduction for the support of his adult son?

II. Was the taxpayer entitled to deduct legal expenses for the defense of his son, as an ordinary and necessary business expense?

FINDINGS OF FACT

1. Petitioner, Denes Buthy, timely filed New York State income tax returns for the year 1970.

2. A Notice of Determination of deficiencies in income tax for the year 1970 was issued on January 31, 1972, against the taxpayer under File No. 0-56549472.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. The taxpayer was ordained a minister of the Trans Danubian Diocese in Hungary and has practiced as a minister in the Lutheran Church in America since 1957. The taxpayer was also an eminently qualified school teacher and taught full time in 1966, 1967 and 1968.

5. The taxpayer's son was arrested on serious criminal assault charges in 1967. At the bail hearing, the court informed the taxpayer that he was legally bound to provide counsel for his son.

6. It is noted that for the taxable year 1968, the Internal Revenue Service determined that Reverend Buthy could claim his son as a dependent because Reverend Buthy contributed over 1/2 of his son's support and his son's income was less than \$600.00. In 1970, Reverend Buthy contributed over 1/2 of his son's support and his son earned less than \$600.00.

7. The taxpayer lost his teaching job in 1968 and taxpayer attributes his loss of employment to his son's arrest and trial. Taxpayer did not regain a full-time teaching position until 1970.

8. Reverend Buthy contended that the instructions given to him by the Upper New York Synod at the Lutheran Church of America, which call on him to "inculcate piety in individual and family life", show that the family is part of his profession or business and that legal expenses, expended to preserve his own family, should be deductible.

CONCLUSIONS OF LAW

A. The taxpayer was entitled to an exemption for the support of his son for the year 1970, as he contributed over 1/2 of his son's support and his son earned less than \$600.00 in that year.

B. Legal fees, incurred on behalf of taxpayer's son, are a personal and nondeductible expense. The litigation is not directly related to nor does it arise from the taxpayer's business or employment.


C. The deficiencies are redetermined and are modified by the allowance of the above exemption for the support of the taxpayer's son. In all other respects, the deficiencies are sustained.

D. Pursuant to the Tax Law, interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York
August 13, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER