

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM R. ECKHOF

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(8) 22 of the
Tax Law for the (Year(83) 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 23rd day of October , 1973, she served the within

Notice of Decision (or Determination) by (certified) mail upon William R.

Eckhof

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. William R. Eckhof

316 Osborne Road

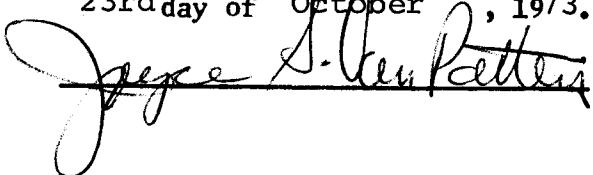
Albany, New York 12211

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

23rd day of October , 1973.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM R. ECKHOF

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(8)~~²² of the
Tax Law for the (Year~~(s)~~) 1970

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
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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 23rd day of October , 19⁷³, she served the within

Notice of Decision (or Determination) by (certified) mail upon Lawrence F.

Anito, Jr., Esq. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Lawrence F. Anito, Jr., Esq.
74 State Street
Albany, New York 12207

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

23rd day of October , 1973.

Joyce S. Patterson

Martha Funaro



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
October 23, 1973

Mr. William R. Eckhof
316 Osborne Road
Albany, New York 12211

Dear Mr. Eckhof:

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

Please take further notice that pursuant to
Section ~~73~~ **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,


Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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

Petitioner, William R. Eckhof, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1970. (File No. 0-58569555). A calendar call was scheduled before the State Tax Commission, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, for June 6, 1973. Prior to the calendar call, petitioner, in writing, waived a formal hearing and consented to the issuing of a decision without the introduction of additional evidence by him.

ISSUES

- I. Did petitioner, William R. Eckhof, substantiate \$260.00 in itemized deductions for travel and entertainment expenses for the year 1970?
- II. Did petitioner, William R. Eckhof, properly deduct his entire casualty loss on his 1970 income tax return?
- III. Did petitioner, William R. Eckhof, establish that the loss from rental property was incurred in a transaction entered into for profit?

FINDINGS OF FACT

1. Petitioner, William R. Eckhof, filed a New York State income tax resident return for the year 1970.

2. On November 27, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, William R. Eckhof, disallowing \$5,126.00 claimed by him for travel expenses, casualty loss, and rental loss, during the year 1970, and accordingly issued a Notice of Deficiency in the sum of \$604.24.

3. Petitioner, William R. Eckhof, claimed a deduction of \$260.00 for travel and entertainment expenses. He failed to submit any documentary or other sufficient evidence to prove that he incurred the expenses he had claimed.

4. Petitioner, William R. Eckhof, sustained a \$3,165.00 loss when the roof of his residence collapsed on January 17, 1970. He claimed this loss on his 1970 income tax return because he had yet to be compensated for it by his insurance company. On April 20, 1971, petitioner, William R. Eckhof, received \$2,300.00 from the insurance company to compensate him for the loss.

5. Petitioner, William R. Eckhof, rented property he owned on Cape Cod from June 26, 1970 through July 31, 1970, for \$1,400.00. He then claimed \$2,636.00 net loss from rents resulting from depreciation, repairs, and inability to rent the premises for the other 47 weeks of the year. He failed to prove by documentary or other sufficient evidence that the premises was used for the production of income and not for personal use and enjoyment.

CONCLUSIONS OF LAW

A. That petitioner, William R. Eckhof, failed to substantiate alleged deductions for the year 1970, since he did not submit documentary or other sufficient evidence to support his claim and accordingly the deduction was properly disallowed by the Income Tax Bureau.

B. That where a claim for reimbursement exists and there is a reasonable prospect of recovery of all or part of the loss, the deductible loss must be reduced by the amount of the anticipated

recovery, even though the payment is not received until a subsequent tax year. The adjustment to decrease the loss by the amount compensated by the insurance company was properly made.

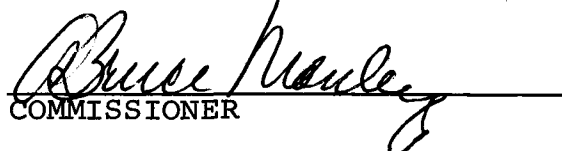
C. That petitioner, William R. Eckhof, failed to prove that his premises in Cape Cod were not for his enjoyment and use for 47 weeks of 1970. The remaining 5 weeks or 9.6% of the year may be used to determine the proportional amount that may be claimed; $\$2,636.00 \times .096 = \250.06 .

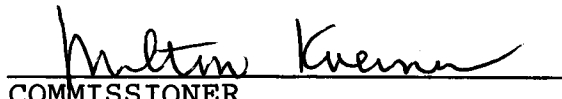
D. That the petition of William R. Eckhof is granted to the extent of reducing the rental loss adjustment from \$2,636.00 to \$2,385.94. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued November 27, 1972, and that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
October 23, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER