

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
WALTER S. and ELIZABETH SCHYMIK :  
:  
For a Redetermination of a Deficiency or :  
a Refund of Personal Income :  
Taxes under Article(3) 22 of the :  
Tax Law for the Year(3) 1968. :

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

State of New York  
County of Albany

Donna Scranton , 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 14th day of May , 1976 , she served the within  
Notice of Decision (~~or Determination~~) by (certified) mail upon Walter S. and  
Elizabeth Schymik (~~representative of~~) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. and Mrs. Walter S. Schymik  
10 Bend of River Lane  
Stamford, Connecticut 06902

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

14th day of May , 1976

Janet Mack

Donna Scranton

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of  
WALTER S. and ELIZABETH SCHYMIK

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

:  
For a Redetermination of a Deficiency or  
a Refund of Personal Income :  
Taxes under Article (8) 22 of the :  
Tax Law for the Year (8) 1968. :

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State of New York  
County of Albany

Donna Scranton , 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 14th day of May , 1976, she served the within  
Notice of Decision (~~or Determination~~) by (certified) mail upon Stanley  
Rosenberg & Company (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Stanley Rosenberg & Company  
175 Main Street  
White Plains, N. Y. 10601

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

14th day of May , 1976.

Janet Mack

Donna Scranton



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, N.Y.  
May 14, 1976

TELEPHONE: (518) 457-3850

Mr. and Mrs. Walter S. Schynik  
10 Bend of River Lane  
Stamford, Connecticut 06902

Dear Mr. and Mrs. Schynik:

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

Please take further notice that pursuant to  
Section **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.

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. They  
will be referred to the proper party for reply.

Very truly yours,

**PAUL B. CORBURN**  
**SUPERVISING TAX**  
**HEARING OFFICER**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :

of

WALTER S. and ELIZABETH SCHYMIK :

DECISION

for a Redetermination of a Deficiency or  
for Refund of Personal Income Tax under :  
Article 22 of the Tax Law for the Year  
1968. :

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Walter S. and Elizabeth Schymik, 10 Bend of River Lane, Stamford, Connecticut, filed a petition under section 689 of the Tax Law for a redetermination of a deficiency issued on January 18, 1971, in the amount of \$413.71 plus interest of \$43.64 for a total of \$457.35 for personal income tax under Article 22 of the Tax Law for the year 1968. (File No. 8-13178982).

In lieu of a hearing, petitioner submits his case to the Commission on the file of the Income Tax Bureau. The petitioner is represented by Stanley Rosenberg & Company, C.P.A. Said file has been duly examined and considered.

ISSUE

The issue in this case is whether the New York income of a nonresident includes amounts received by an employer as reimbursement for the expenses of moving from California to Connecticut to work at the employer's New York location.

FINDINGS OF FACT

1. Prior to 1968, Mr. and Mrs. Schymik, the petitioners herein, were residents of California. Mr. Schymik was employed by International Business Machines, Inc. On March 1, 1968, petitioners moved to Stamford, Connecticut in connection with Mr. Schymik's transfer to the New York office of IBM.

2. Petitioners incurred moving expenses on their trip from California to Connecticut. They received reimbursement from IBM in the amount of \$10,066.33. This amount was included in the wages reported by IBM as subject to withholding.

3. Petitioner asserts that he did not get an increase in salary after the transfer from California, but that said transfer was part of a standard rotation program for executive development.

4. Petitioner filed a New York income tax return for 1967 as a nonresident. He reported his compensation for the entire year as \$37,824.00 and the share thereof received after March 1, as \$33,923.66. He reduced this last amount by the \$10,066.33 reimbursement for moving expenses included therein to result in \$23,857.33. This he allocated by days worked inside and outside New York after March 1, using a fraction of 129/195. The deficiency notice adds the reimbursement back into income.

CONCLUSIONS OF LAW

The petitioners, who were at all times nonresidents of New York, are taxable on the net amount of items of income which enter into their Federal adjusted gross income which are "derived from or connected with New York sources..." (Tax Law section 632 (a) (1)). These include items of income attributable to an occupation carried on in New York (Tax Law section 632(b) (1) (B)).

Such items of income attributable to an occupation carried on in New York should reasonably include the reimbursement, at issue in this case, for moving expenses incurred in connection with a transfer to a job location in New York.

DECISION

The deficiency is correct and is due together with such interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York  
May 14, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER