

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

DAVID FARQUHARSON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (22) of the :  
Tax Law for the Year (1973) 1973. :

State of New York  
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that  
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 31st day of May , 1977, ~~he~~ served the within  
Notice of Decision by (certified) mail upon David Farquharson

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

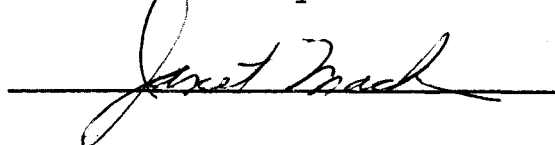
Mr. David Farquharson  
71 East 77th Street  
New York, New York 10021

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative~~  
~~of the~~) 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

31st day of May , 1977.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

DAVID FARQUHARSON

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (x) 22 of the :  
Tax Law for the Year ~~(or years)~~ 1973. :

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that  
he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 31st day of May, 1977, he served the within  
Notice of Decision by (certified) mail upon Sanford W. House

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Sanford W. House, CPA  
125 Rose Hill Avenue  
New Rochelle, New York 10804

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative  
of the) 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

31st day of May, 1977.

Bruce Batchelor

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STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

ADDRESS YOUR REPLY TO

May 31, 1977

TELEPHONE: (518) **457-1723**

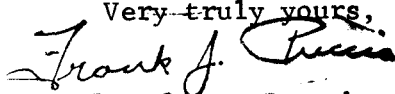
Mr. David Farquharson  
71 East 77th Street  
New York, New York 10021

Dear Mr. Farquharson:

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,  
  
**Frank J. Puccia**  
**Supervisor of**  
**Small Claims Hearings**

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	:	
	:	
DAVID FARQUHARSON	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1973.	:	

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Petitioner, David Farquharson, residing at 71 East 77th Street, New York, New York 10021, has filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1973. (File No. 12045)

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on September 15, 1976 at 10:45 a.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Sanford W. House, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq. of counsel).

ISSUE

Whether the petitioner, David Farquharson, sustained the burden of proof regarding a casualty loss deducted on his 1973 New York State income tax return.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, David Farquharson, sustained a loss of an American elm tree located in the front of the petitioner's residence, due to an electrical storm on August 31, 1973.

2. Petitioner, David Farquharson, deducted \$9,161.00 as a loss based upon an appraisal done by Peerless Tree Expert Co. of Sheffield, Massachusetts of the individual worth of the tree.

3. An appraisal performed by Wheeler-Taylor Realty Company, Inc. of Great Barrington, Massachusetts estimated that the real property prior to the loss had a fair market value of \$60,000.00 and after the loss, \$58,000.00.

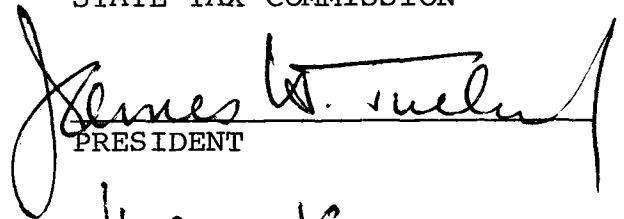
4. The appraisal by the Peerless Tree Expert Company is invalid, since it only appraised the value of the individual tree and not the actual loss in fair market value of the entire real property. That the appraisal by Wheeler and Taylor Realty Company, Inc. is based upon the fair market value of the real property before and after the loss as required by I.R.C. section 165.

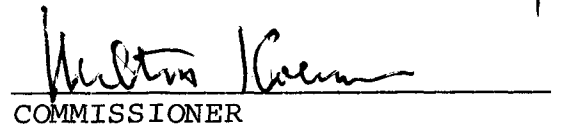
5. The petition of David Farquharson is granted to the extent that said casualty loss is allowed in the amount of \$2,000.00, less \$100.00 limitation for a net deductible casualty loss of \$1,900.00.

6. The Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued on October 27, 1975 and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York  
May 31, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER