

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RUSSELL A. MERCIER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article(s) 22 of the :
Tax Law for the Year(s) ~~xxxxxx~~ 1972 :

State of New York
County of Albany

Marsina Donnini , 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 30th day of June , 1977, she served the within
Notice of Decision by (certified) mail upon Russell A. Mercier

(~~representative of~~) the petitioner in the within proceeding,

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

as follows: Mr. Russell A. Mercier
44 Maple Street
Greenvale, New York 11548

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~~
~~xxxxxx~~ 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

30th day of June , 1977.

Marsina Donnini

Just Mack



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

June 30, 1977

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

Mr. Russell A. Mercier
44 Maple Street
Greenvale, New York 11548

Dear Mr. Mercier:

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
Frank J. Puccia

Supervisor of Small Claims Hearing

Enc.

cc: ~~Taxing Bureau's Representative~~

Taxing Bureau's Representative:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Russell Mercier, deducted on his New York State personal income tax return for the year 1972, employee business expenses of \$2,510.00, less reimbursements of \$780.00, which resulted in a net deduction of \$1,730.00.

2. Upon audit, the Income Tax Bureau issued a deficiency whereby they allowed a net deduction of \$256.00 for employee business expenses. Other adjustments to the medical expense deduction, and to the New York State modifications in accordance with sections 612(b)(11) and 615(c)(1) of the Tax Law were made and conceded by the petitioner.

3. Petitioner is employed as a construction coordinator by Castagna and Son, Inc. His duties require him to travel from job site to job site conducting cost and time studies at each location and to report the results to his employer at the end of each day.

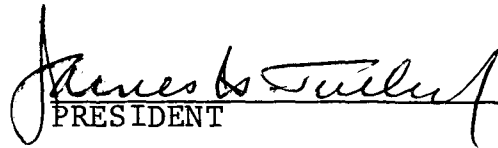
4. A diary was submitted for the year 1972, which contained very little information. In most cases, the diary had some dollar amounts, and a variety of other figures. However, the figures did not give any indication of what they represented.

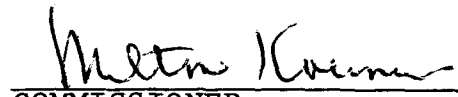
5. That the petitioner's records have not met the substantiation requirements in accordance with Internal Revenue Regulation 1.274-5 and accordingly, have not sustained the burden of proof within the meaning and intent of section 689(e) of the Tax Law.

6. That the petition of Russell Mercier is denied and the Notice of Deficiency issued November 25, 1974 in the amount of \$257.62 is sustained together with such additional interest as may be lawfully owing.

DATED: Albany, New York
June 30, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER