

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FREDERICK F. AND JEAN G. PEASE

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) or Period(s) :
1966 and 1967

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 15th day of July, 1977, she served the within
Notice of Decision by (certified) mail upon Frederick F. and
Jean G. Pease

(~~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 Frederick F. Pease
211 Bal Cross Drive
Bal Harbour, Florida 33154

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~~
~~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

15th day of July, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

July 15, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. and Mrs. Frederick F. Pease
211 Bal Cross Drive
Bal Harbour, Florida 33154

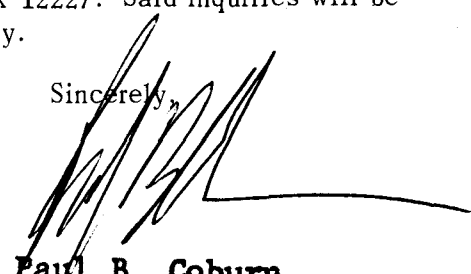
Dear Mr. and Mrs. Pease

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


Paul B. Coburn
Supervising Tax Hearing Officer

cc: ~~RECEIVED BY THE TAXING BUREAU~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
FREDERICK F. and JEAN G. PEASE	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Years 1966 and 1967.	:	

Petitioners, Frederick F. and Jean G. Pease, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the years 1966 and 1967. The case was submitted for decision on information contained in the file.

ISSUE

Did petitioner, Frederick F. Pease, properly deduct private airplane costs as a business expense?

FINDINGS OF FACT

1. Petitioners, Frederick F. Pease and Jean G. Pease, filed timely New York State income tax returns for the years 1966 and 1967.
2. On April 11, 1969, a Notice of Determination of Deficiencies in personal income tax for the years 1966 and 1967 was issued in the amount of \$1,709.38 against the taxpayers under File No. 76850375.

3. The taxpayers filed timely petitions for a redetermination of assessed deficiencies.

4. Petitioners, Frederick F. and Jean G. Pease, consented to the New York State disallowance of their deductions for tax year 1966 since the disallowance was based on a Federal audit for 1966 which disallowed the claims. The petitioners did not consent to the disallowance of 1967 deductions.

5. Petitioner, Frederick F. Pease, was a stockbroker in New York City for E.F. Hutton & Company, in 1966 and 1967. Mr. Pease's income was based on commissions received from security sales. A major portion of his business centered on sales to investors outside of the New York City area. Mr. Pease developed a particularly large Canadian clientele. Due to the personal nature of his business, Mr. Pease was required to make numerous trips outside of New York City to conduct personal sales conferences. Mr. Pease utilized his own airplane for these trips and deducted airplane expense items on his 1966 and 1967 Federal and State income tax returns.

6. Petitioner, Frederick F. Pease, frequently flew to Toronto, Montreal, and London, Ontario during 1966 and 1967 to meet customers in relation to his stock brokerage business. The use of his own airplane created certain business advantages for Mr. Pease. He was able to

remain in New York City until the close of the Stock Exchange and then take off for dinner conferences with up-to-date trading information. At this time, Mr. Pease had a significant number of New York City clients requiring his presence in New York City during normal business hours. The use of commercial aircraft or alternate methods of transportation for Canadian trips would have limited the dinner conference format and restricted the volume of Mr. Pease's sales. The time lags created by travel from downtown offices to major commercial airports and by airline schedules would have prevented Mr. Pease from arriving in Canadian locations during acceptable times for business transactions. Mr. Pease's New York City or Canadian business activities would have been curtailed without the use of his private airplane.

7. Petitioner, Frederick F. Pease, was not reimbursed for business related expenses for his private airplane or for commercial transportation tickets by E.F. Hutton & Company, Inc.

8. Petitioner, Frederick F. Pease, submitted his pilot log listing times and locations for his visits to customers. Nonbusiness trips were also listed. For tax year 1967, Mr. Pease deducted 80 percent of his total airplane expenses as business related.

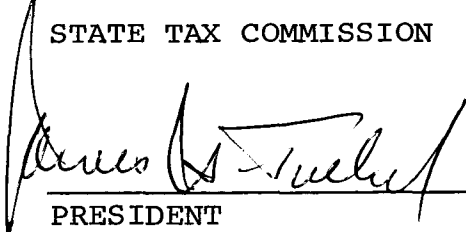
CONCLUSIONS OF LAW

A. That, the petitioners, Frederick F. and Jean G. Pease, are entitled to deductions for business related airplane expenses for the tax year 1967. The use of the petitioner's own aircraft was more than just a mere convenience. The time lags inherent in commercial travel would have curtailed Mr. Pease's activities in either New York City or out of town locations. The petitioners demonstrated the business necessity of utilizing their private airplane. The requirements of section 162 IRC have been satisfied.

B. That, the deficiencies assessed for 1967 are cancelled.

DATED: Albany, New York
July 15, 1977

STATE TAX COMMISSION



PRESIDENT

COMMISSIONER

COMMISSIONER



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

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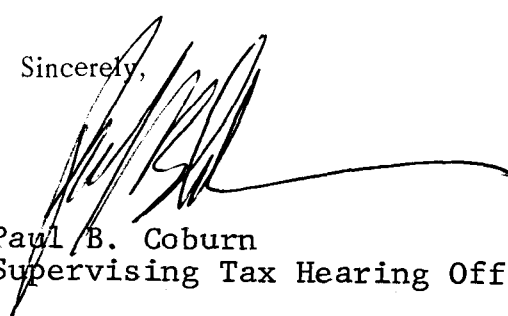
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cc: ~~XXXXXXXXXXXXXXXXXXXX~~
~~Petitioner's Representative~~

Taxing Bureau's Representative

FORMAL HEARING
JUL 26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU

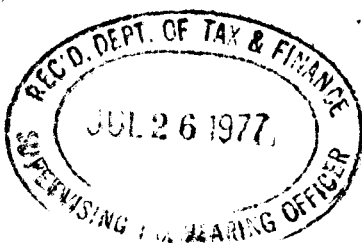
STATE CAMPUS

ALBANY, N. Y. 12227

Mr. and Mrs. Frederick F. Pease
211 Bal Cross Drive
Bal Harbour, Florida 33154



*Moved
not forwardable
street*



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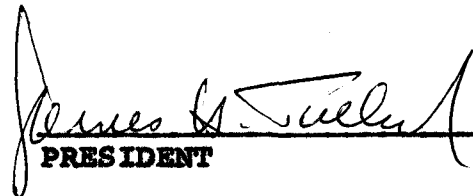
CONCLUSIONS OF LAW

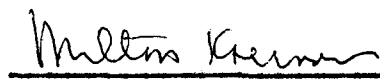
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