

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MICHAEL J. DONTZIN

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)~~ :
1972

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that
~~she~~ he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 13 day of October , 1978 , ~~she~~ he served the within
Notice of Decision by (certified) mail upon Michael J. Dontzin

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Michael J. Dontzin
55 Fifth Avenue
New York, NY 10003

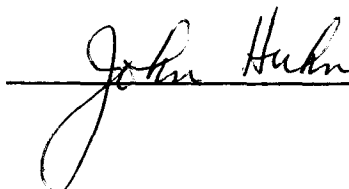
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

13 day of October , 1978.





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STATE TAX COMMISSION

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1972

State of New York
County of Albany

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Notice of Decision by (certified) mail upon Aaron Schwinger

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by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Aaron Schwinger
225 Broadway
New York, NY

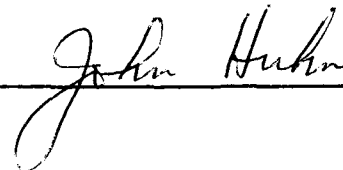
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Sworn to before me this

13 day of October, 1978







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

October 13, 1978

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

**Michael J. Dontzin
55 Fifth Avenue
New York, NY 10003**

Dear Mr. Dontzin:

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 **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,


**Joseph Chrywaty
Hearing Examiner**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
MICHAEL J. DONTZIN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1972.	:	

Petitioner, Michael J. Dontzin, 55 Fifth Avenue, New York, New York 10003, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1971 (File No. 12578).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 18, 1977 at 9:15 A.M. The petitioner appeared by Aaron Schwinger. The Income Tax Bureau appeared by Peter Crotty, Esq. (Samuel Freund, Esq., of counsel).

ISSUE

Whether petitioner sustained the burden of proof necessary to show that he was entitled to deduct unreimbursed business expenses, medical and dental expenses, contributions, and alimony payments claimed on his New York State income tax resident return for 1972.

FINDINGS OF FACT

1. Petitioner, Michael J. Dontzin, filed a New York State income tax resident return for 1972, wherein employee business expenses and itemized deductions were claimed.

2. The Income Tax Bureau issued a Statement of Audit Changes against petitioner on July 26, 1974, disallowing in full the following items for lack of evidence:

Unreimbursed Business Expense	\$1,131.00
Medical and Dental Expenses	\$1,917.00
Contributions	\$ 375.00
Alimony	\$6,000.00

In addition, since the remaining New York itemized deductions were less than the New York standard deduction of \$2,000.00, the standard deduction was allowed in lieu of New York itemized deductions claimed. On January 27, 1975, a Notice of Deficiency was issued based on said Statement.

3. Petitioner, Michael J. Dontzin, submitted documentary evidence which showed that medical and dental expenses of \$2,562.00 were paid during 1972. No evidence was submitted for unreimbursed business expenses of \$1,131.00 and contributions of \$375.00.

4. A separation agreement (which was subsequently incorporated into the divorce decree) was submitted. It revealed that petitioner was required to remit several types of payments to his former wife under various conditions. However, no evidence was submitted that any payments were actually made to his former wife during 1972, or that the conditions set forth in the separation agreement which obligated petitioner to make such payments were met.

CONCLUSIONS OF LAW

A. That petitioner has not sustained the burden of proof in accordance with section 689(e) of the Tax Law, in establishing that he was entitled to deduct unreimbursed business expenses of \$1,131.00, contributions of \$375.00 and alimony payments of \$6,000.00.

B. That a deduction for medical and dental expenses of \$2,562.00 is granted in accordance with the meaning and intent of section 213 of the Internal Revenue Code and Article 22 of the Tax Law; however, said deduction is subject to the three percent limitation set forth in section 213(a)(1) of the Internal Revenue Code.

C. That the petition of Michael J. Dontzin is granted to the extent of allowing medical and dental expenses of \$2,562.00, less the three percent limitation of \$1,008.00 (3% of the corrected adjusted gross income of \$33,613.00), which results in a net medical and dental expense deduction of \$1,554.00.

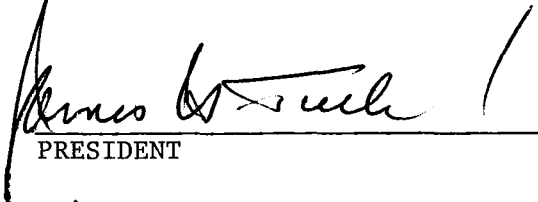
D. That the Income Tax Bureau is directed to modify the Notice of Deficiency issued January 27, 1975 allowing itemized deductions, which deductions are computed as follows:

Medical and Dental	\$1,554.00
Taxes	3,196.00
Interest	535.00
Miscellaneous	179.00
Life Insurance Premiums	50.00
Total	<u>\$5,514.00</u>
Less Income Tax included above	<u>2,701.00</u>
New York Itemized Deduction	<u>\$2,813.00</u>

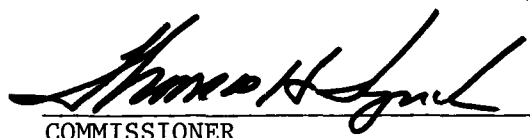
E. That the petition of Michael J. Dontzin is granted to the extent provided in Conclusions of Law "C" and "D", above, but that, except as so granted, is in all other respects denied.

DATED: Albany, New York
October 13, 1978

STATE TAX COMMISSION



PRESIDENT

COMMISSIONER

COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

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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 ~~(XXXXXX Period)~~ 1972 :

State of New York
County of Albany

John Huhn

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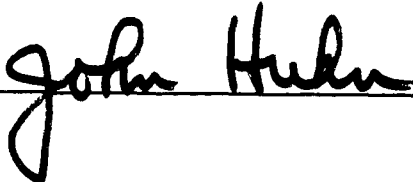
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Sworn to before me this

20th day of November , 19 78.







New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

TO Secretary to the New York State Tax Commission

Please attach to Decision. Rемаiled
November 20, 1978.

11/20/1978

M-75 (5/76)

TA-26 (4-76) 25M **SMALL CLAIMS**

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

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Michael J. Dontzin
55 Fifth Avenue
New York, NY 10003

Not
AT
YESHIVA

Handwritten signature/initials

Handwritten signature/initials