

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD FEENEY

AFFIDAVIT OF MAILING

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(s) ~~or Period(s)~~ :
1969 and 1970.

State of New York
County of Albany

John Huhn , 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 31st day of March , 19 78, ~~she~~ served the within
Notice of Decision by (certified) mail upon Edward Feeney
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Edward Feeney
110 Bingham Street
Albany, New York 12202

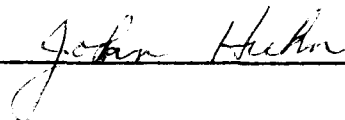
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

31st day of March , 1978







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

March 31, 1978

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

Mr. Edward Feeney
110 Bingham Street
Albany, New York 12202

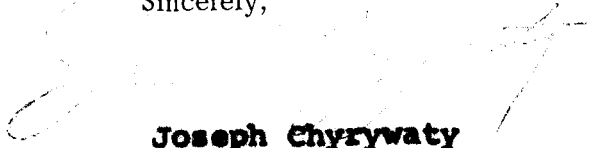
Dear Mr. Feeney:

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 Chyrywat
Hearing Examiner

cc: ~~XXXXXXXXXXXXXXXXXXXX~~
Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
EDWARD FEENEY :
for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under Article :
22 of the Tax Law for the Years 1969 and :
1970. :
:

Petitioner, Edward Feeney, 110 Bingham Street, Albany, New York 12202, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970 (File No. 00669).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Building 9, State Campus, Albany, New York, on July 20, 1977 at 1:15 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Francis Cosgrove, Esq., of counsel).

ISSUE

Whether certain payments made to petitioner by his employer during the years 1969 and 1970 constituted taxable income.

FINDINGS OF FACT

1. Petitioner, Edward Feeney, timely filed New York State personal income tax returns for the years 1969 and 1970.

2. The Income Tax Bureau contended that petitioner had received supplemental income from his employer in the amount of \$570.00 in 1969 and \$595.00 in 1970, and that the supplemental income constituted taxable income. Accordingly, it issued a Notice of Deficiency for said years on February 26, 1973 in the amount of \$91.67 in additional personal income tax, plus \$12.51 in interest, for a total due of \$104.18.

3. Petitioner, Edward Feeney, was a resident of Albany, New York, during 1969 and 1970. He worked for the Foster Lipkins Corporation at the South Mall construction site in Albany. He was frequently sent on errands by his employer and used his own car for this purpose. These errands included picking up small, needed items as well as tools at other locations, and bringing them to the construction site. He also picked up personnel at the Albany Airport.

4. Each week petitioner presented to his employer the bills for automobile expenses incurred in his performance of the errands. He was reimbursed in the exact amount of the bills so presented. No part of the reimbursement constituted living or commuting expenses.

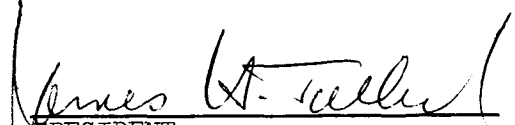
CONCLUSIONS OF LAW

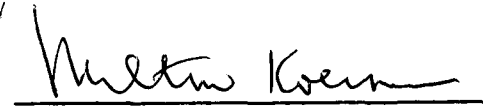
A. That the payments received by petitioner, Edward Feeney, from his employer during the years 1969 and 1970 were reimbursements for expenses incurred and accounted for to his employer and did not constitute additional taxable income.

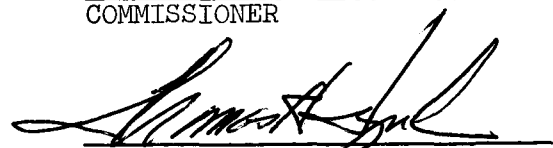
B. That the petition of Edward Feeney is granted and the Notice of Deficiency issued February 26, 1973 in the amount of \$104.18 is cancelled.

DATED: Albany, New York
March 31, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER