

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RAYMOND C. DEAN

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)~~ 1968,  
1969 and 1970.

State of New York  
County of Albany

Carmen Mottolese, 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 23rd day of August, 1976, she served the within Notice of Decision by (certified) mail upon Raymond C. Dean ~~representative of~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Mr. Raymond C. Dean  
37 Rogers Drive  
Depew, New York 14043

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

23rd day of August, 1976.

Carmen Mottolese

Janet Mack



STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition  
of  
RAYMOND C. DEAN  
for Redetermination of a Deficiency or  
for Refund of Personal Income Tax under  
Article 22 of the Tax Law for the Years  
1968, 1969 and 1970

DECISION

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Petitioner, Raymond C. Dean, residing at 37 Rogers Drive, Depew, New York 14043, has filed a petition for redetermination of a deficiency or for the refund of personal income tax under Article 22 of the Tax Law for the years 1968, 1969 and 1970. (File No. 00615).

A formal hearing was held before L. Robert Leisner, Hearing Officer, at the offices of the State Tax Commission, State Office Building, Buffalo, New York, on April 30, 1976 at 9:20 a.m. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Richard Kaufman, Esq., of counsel).

ISSUE

Whether petitioner, Raymond C. Dean, is liable for unpaid New York State withholding taxes due from Marine Lithograph Corp., for the years 1968, 1969 and 1970.

FINDINGS OF FACT

1. On November 29, 1971, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Raymond C. Dean, equal to the amount of New York State withholding taxes due from the Marine Lithograph Corp. for the periods

from November through December, 1968; April through December, 1969; and January through March, 1970. The Statement of Deficiency was issued on the grounds that petitioner was a responsible officer required to collect, truthfully account for, and pay over said taxes and that he willfully failed to do so. It accordingly issued a Notice of Deficiency against him in the sum of \$1,132.10.

2. Petitioner, Raymond C. Dean, was Secretary of Marine Lithograph Corp. during the years in controversy. He was also the Secretary of Tycodyne Industries, the parent corporation and sole stockholder of its subsidiary, Marine Lithograph Corp. Petitioner remained the Secretary of Marine Lithograph Corp. until 1970 when the company discontinued its operations. He was not on the company payroll or involved in the management of the business. Petitioner was basically a record keeping secretary during 1968 and the first portion of 1969, although he did sign some checks for Marine Lithograph Corp. during this period. He never made out payroll checks or payroll records. During 1968, Mr. Lousby, treasurer of Marine Lithograph Corp., handled the financial affairs of the company. For the first nine months of 1969, Mr. Landon handled financial matters and thereafter fiscal matters were managed by the President of Marine Lithograph Corp., Carl Offerman.

3. Petitioner, Raymond C. Dean, became involved in Marine Lithograph's accounting problems in the latter part of 1969 when the company was in the process of discontinuing its operations. He did sign a withholding tax return in the last quarter of 1969 for \$312.70 and one in the first quarter of 1970 for \$82.80. Petitioner did not work with or sign any returns in previous quarters,

nor was he involved in the remittance of withholding taxes. It was during the last quarter of 1969 that petitioner initially discovered that certain withholding taxes were due. Petitioner subsequently contacted the President of Marine Lithograph Corp., Carl Offerman and the Chairman of the Board of Tycodyne Industries, Dr. Joseph D'Angelo, concerning this fact. Presently, petitioner has no knowledge whether the two officers took any action to resolve the situation.

CONCLUSIONS OF LAW

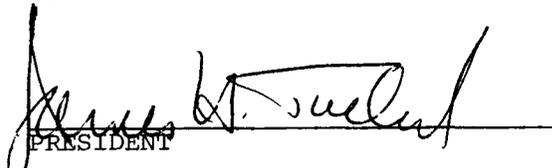
A. That petitioner, Raymond C. Dean, was not a responsible officer required to collect, truthfully account for an pay over New York State personal income withholding taxes due from the Marine Lithograph Corp. during the years 1968, 1969 and 1970, in accordance with the meaning and intent of section 674 of the Tax Law.

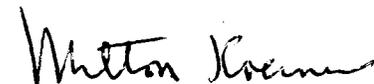
B. That since petitioner, Raymond C. Dean, was not a responsible officer required to collect, truthfully account for and pay over New York State personal income withholding taxes due from Marine Lithograph Corp in the years 1968, 1969 and 1970, a penalty equal to the total amount of unpaid withholding taxes was improperly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That the petition of Raymond C. Dean is granted and the Notice of Deficiency issued November 29, 1971, is cancelled.

DATED: Albany, New York  
August 23, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

**FORMAL HEARING**

TA-26 (4-76) 25M

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

STATE CAMPUS  
ALBANY, N. Y. 12227

RECEIVED  
MAY 11 1976  
ADDRESS UNKNOWN  
NO SUCH OFFICE IN STATE  
NO SUCH STREET  
NO POST OFFICE IN STATE

Mr. Raymond C. Dean  
37 Rogers Drive  
Depew, New York 14043

REFUSED  
8-25-76  
R.H.

RECEIVED  
MAY 11 1976  
SUPERVISOR OF TAX APPEALS

STATE OF NEW YORK  
STATE TAX COMMISSION

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Taxes under Article ~~49~~ 22 of the  
Tax Law for the Year(s) ~~1968, 1969 and 1970~~  
1968, 1969 and 1970.

State of New York  
County of Albany

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Sworn to before me this

22nd day of October, 1976.

Carmen Mottolese

Janet Mack