

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

IRA J. RAAB

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~~)~~xx~~Period(~~s~~) 1970 :

State of New York
County of Albany

Denise Burke , 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 1st day of October , 1976, she served the within
Notice of Decision by (certified) mail upon Ira J. Raab

(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Ira J. Raab
1000 Peninsula Blvd.
Woodmere, N.Y. 11598

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

1st day of October , 1976

Denise Burke

Janet 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

TELEPHONE: (518) **457-3850**

October 1, 1976

Ira J. Raab
1000 Peninsula Blvd.
Woodmere, N.Y. 11598

Dear Ms. Raab:

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 Puccio
Frank Puccio
Supervisor of
Small Claims Hearings

Enc.

cc: ~~Petitioner's Representative:~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
IRA J. RAAB	:	DECISION
for a Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Year 1970.	:	

Petitioner, Ira J. Raab, 1000 Peninsula Boulevard, Woodmere, New York 11598, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970. (File No. 0-54618552). A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 9, 1976. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Whether the penalty assessed under Section 685(c) for failure to file estimated tax returns was correctly assessed and paid for the tax year 1970?

FINDINGS OF FACT

1. On October 5, 1972, the Income Tax Bureau issued a Notice and Demand in the amount of \$149.36 representing the penalty 685(c)

(2)

for underestimation of tax. The assessment was paid by the petitioner on July 31, 1974, whereupon he filed a claim for credit or refund which was denied by the Income Tax Bureau.

2. The petitioner did not file any New York State estimated tax returns for the tax year 1970.

3. Petitioner, Ira J. Raab, was employed by the City of New York, Corporation Counsel's Office and also maintained an outside law practice.

4. The petitioner received an IT-2102 wage and tax statement from the City of New York indicating a salary income of \$11,330.27 and New York State withholding taxes in the amount of \$546.84 for the year 1970.

5. The amount of tax withheld for New York State was based upon the petitioner's claiming of zero(0) exemptions and the authorization of an additional \$100.00 per paycheck to be deducted for withholding taxes and distributed proportionately to the Federal and New York State accounts.

6. The petitioner's gross income from his law practice was approximately \$67,000.00 of which \$19,000.00 was a fee received in September of that year.

CONCLUSIONS OF LAW

1. The petition of Ira J. Raab for a refund of personal income taxes is denied in that the petitioner was required to make a declaration of estimated income tax as provided in section 655(a) of the Tax Law for the taxable year 1970. This section provides as follows:

"Every resident and non-resident individual shall make a

(3)

declaration of his estimated tax for the taxable year, containing such information as the tax commission may prescribe by regulations or instructions, if his New York adjusted gross income other than from wages on which tax is withheld under this article, can reasonably be expected to exceed four hundred dollars plus the sum of the New York personal exemptions to which he is entitled."

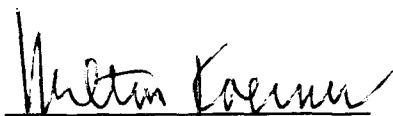
2. Although the petitioner has argued that the absence of the \$19,000.00 fee received in September of 1970 would have precluded him from filing an estimated tax return, the facts indicate that the petitioner would have been required to file an estimated tax return with respect to the income from his outside law practice exclusive of the \$19,000.00 fee pursuant to Section 655(a) of the Tax Law.

3. The taxes withheld from the petitioner's salary could not reasonably be expected to be sufficient to relieve the taxpayer from the requirement for filing an estimated tax return for 1970.

DATED: Albany, New York
October 1, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER