

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Joseph C. Matusek :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of the Tax Law

for the Years 1974 - 1976. :

State of New York

County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 31st day of October, 1979, he served the within notice of Default by certified mail upon Joseph C. Matusek, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Joseph C. Matusek

15 Colony Pl.

Akron, NY 14001

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
31st day of October, 1979.

Joanne Knapp

J. J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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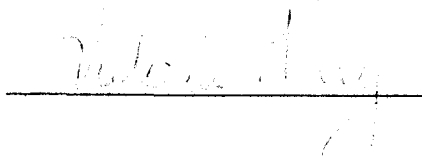
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 31st day of October, 1979, he served the within notice of Default by certified mail upon Richard L. Campbell the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Richard L. Campbell
Smolka, DiBartolo, Gibson & Campbell
PO Box S, 10490 Main St.
Clarence, NY 14031

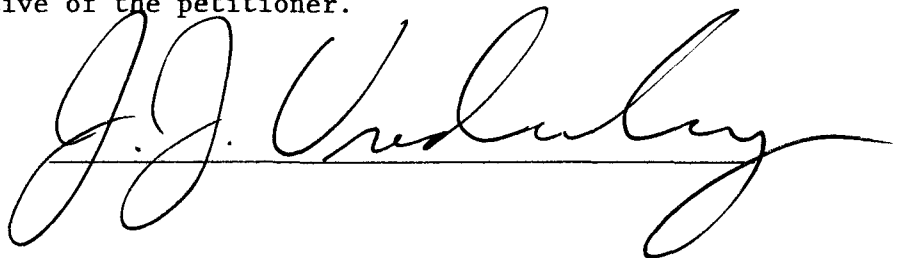
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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
31st day of October, 1979.



Notary Public



Jay Vredenburg

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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

October 31, 1979

Joseph C. Matusek
15 Colony Pl.
Akron, NY 14001

Dear Mr. Matusek:

Please take notice of the Default Order of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to Section(s) 690 of the Tax Law, any proceeding in court to review this decision 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 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.

Very truly yours,

cc: Petitioner's Representative
Richard L. Campbell
Smolka, DiBartolo, Gibson & Campbell
PO Box S, 10490 Main St.
Clarence, NY 14031
Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Joseph C. Matusek :
: DEFAULT ORDER
for Redetermination of Deficiency or for Refund of :
Personal Income Tax Taxes under Article(s) 22 :
of the Tax Law for the Years 1974 - 1976. :

Petitioner(s) Joseph C. Matusek, 15 Colony Pl., Akron, NY 14001 filed a petition for redetermination of deficiency or for refund of Personal Income Tax taxes under Article(s) 22 of the Tax Law for the Years 1974 - 1976 File No. 20695.

Under Section 601.5 of the State Tax Commission Rules of Practice and Procedure, a notice was served on the petitioner(s) representative, Richard L. Campbell, to file a perfected petition. Notice to file the perfected petition was sent to the representative's last known address. Petitioner(s) representative failed to file a perfected petition. A default has been duly noted.

Now on motion of the Secretary to the State Tax Commission, it is

ORDERED that the petition of Joseph C. Matusek be and the same is hereby denied.

DATED: Albany, New York

OCT 31 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

December 6, 1979

Richard L. Campbell, CPA
Smolka & Campbell
P. O. Box 8
10490 Main Street
Clarence, New York 14031

RE: JOSEPH J. MATUSEK
TAB NO. 20695

Dear Mr. Campbell:

This is to acknowledge receipt of your letter of November 28, 1979 with reference to the above entitled matter.

Your motion to vacate the default order issued October 31, 1979 for failure to file a perfected petition is granted upon condition that you file a perfected petition within 45 days from the date of this letter.

Perfected Petition forms are enclosed for your convenience.

Please contact Mr. John Sollecito, Tax Appeals Bureau, Building #9, State Campus, Albany, New York 518-457-1723 with reference to obtaining any of the other information requested in your letter.

Sincerely,

PAUL B. COBURN
Secretary to the State Tax Commission

PBC:mac
Enc.

cc: Tax Appeals Bureau
Att: John Sollecito, Director

SMOLKA & CAMPBELL
Attorneys and Counselors at Law

P.O. BOX S
10490 MAIN STREET
CLARENCE, NEW YORK 14031

Attn: Mr. Paul Coburn

State of New York
State Tax Commission
Tax Appeals Bureau
Albany, NY 12227

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SMOLKA & CAMPBELL
Attorneys and Counselors at Law

P.O. BOX 5
10490 MAIN STREET
CLARENCE, NEW YORK 14031

ROBERT A. SMOLKA
RICHARD L. CAMPBELL, CPA
ROBERT G. SILLARS

TELEPHONE
AREA CODE 716
759-6807

November 28, 1979

State of New York
State Tax Commission
Tax Appeals Bureau
Albany, NY 12227

Attention: Paul Coburn

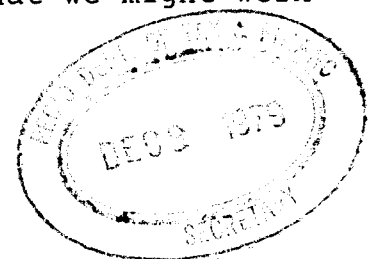
Subject: Joseph J. Matusek - Tab No. 20695

Dear Mr. Coburn:

This is to advise that I have recently been in contact with Mr. John Koagel at the Tax Appeals Bureau office in regard to this file. He advised that I must contact someone in the Secretary's office relative to a determination on this case.

A default order has recently been granted against Mr. Matusek relative to this tax. My involvement in this file goes back several years, and I would appreciate it very much if you would review your file and my original letters dating back to 1977. At that time we maintained, and we still maintain, that this assessment does not at all pertain to Joseph Matusek.

It is our understanding that the assessment originally stems from an underpayment of withheld New York income tax by a corporation in Erie County. Mr. Matusek was employed by this corporation, but only as a truckdriver on an hourly basis. He was at no time an officer, shareholder, director, or any other similar position within the company. He at no time owned any stock or had any interest whatsoever in the corporation. We maintained these facts to you in our original correspondence, and we reiterate here that Mr. Matusek had none of the necessary requisites for you to attempt to assess this tax upon him personally. My requests to your department at that time (1977) were completely unanswered, and we were given no justification for the involvement of Mr. Matusek. I can only appeal to you now to please review the file, attempt to determine the proper parties upon which this should be assessed, and to contact me immediately so that we might work together to straighten out this file.



Mr. Paul Coburn
November 28, 1979
Page 2

I appeal to you to be cautious in your administrative determination and to contact us personally in an effort to resolve this situation. If you will refer to my letter dated July 7, 1978, you will see that your department has been put on notice as to Mr. Matusek's possible claim for legal fees and expenses in connection with this matter if he was not determined a responsible party.

You are hereby requested to contact me immediately so that we may finally resolve this matter.

Sincerely,



Richard L. Campbell

cc: Mr. Joseph J. Matusek

CERTIFIED MAIL
RETURN RECEIPT REQUESTED