

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CARMEN V. RODRIGUEZ

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Gift :
Taxes under Article(s) 26-A of the :
Tax Law for the ~~Year(s) or Period(s)~~ :
Quarter ending 9/30/73.

State of New York
County of Albany

Bruce Batchelor , 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 8th day of December , 1976 , she served the within
Notice of Decision by (certified) mail upon Carmen V.
Rodriguez (~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mrs. Carmen V. Rodriguez
6 New Street
East Norwalk, Connecticut 06855
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

8th day of December , 1976.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

December 8, 1976

TELEPHONE: (518) 457-3850

Mrs. Carmen V. Rodrigues
6 New Street
East Norwalk, Connecticut 06855

Dear Mrs. Rodrigues:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(2) **1007(b)** 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,

PAUL B. COBURN
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
CARMEN V. RODRIGUEZ	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Gift Tax under Article 26-A	:	
of the Tax Law for the Quarter ending	:	
September 30, 1973.	:	

Petitioner, Carmen V. Rodriguez, residing at 6 New Street, East Norwalk Connecticut, 06855, has filed a petition for refund of gift tax under Article 26-A of the Tax Law for the quarter ending September 30, 1973. (File No. 00327). A formal hearing was held before Michael Alexander, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on August 18, 1976 at 9:15 A.M. Petitioner appeared pro se. The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq., (Michael Weinstein, Esq. of counsel).

ISSUE

Whether petitioner, Carmen V. Rodriguez, had reasonable cause for failing to file New York State gift tax returns for the calendar quarter ending September 30, 1973.

FINDINGS OF FACT

1. On August 10, 1973, petitioner, Carmen V. Rodriguez, then residing in New York State, made two \$30,000.00 gifts to her

sons and filed two Federal gift tax returns for the calendar quarter ending September 30, 1973, but was not advised by her accountant that she was required to file a New York State Resident Quarterly Gift Tax Return.

2. On April 15, 1974, the Miscellaneous Tax Bureau wrote petitioner advising that no New York State gift tax return had been received, enclosed such returns and instructed the petitioner to file the returns and remit the tax due therewith.

3. Returns dated April 22, 1974, were filed and the tax, as computed on the return, was enclosed under cover of a letter of April 22, 1974, which advised that petitioner, Carmen V. Rodriguez, and her accountant were unaware that this tax was applicable.

4. On June 24, 1974, a Notice and Demand for Payment of Gift Tax Due was sent to petitioner, Carmen V. Rodriguez, stating additional tax due, interest and penalty. The additional tax and interest were paid by check under cover of a June 26, 1974 letter from petitioner. The penalty of \$210.00 was not paid and cancellation thereof was requested.

5. On August 19, 1974, petitioner paid the penalty of \$210.00 and applied for refund thereof.

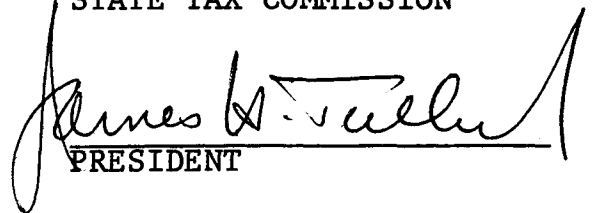
6. By letter of September 5, 1975, petitioner, Carmen V. Rodriguez's, application for refund was denied.


CONCLUSIONS OF LAW

A. That petitioner, Carmen V. Rodriguez, had reasonable cause for failing to file New York State resident quarterly gift tax returns for the calendar quarter ending September 30, 1973, and therefore, the penalty collected should be refunded.

DATED: Albany, New York
December 8, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER