

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HERBERT RICHHEIMER

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Personal Income Tax
Taxes under Article ~~(28)~~ 22 of the
Tax Law for the Year(s) 1968

State of New York
County of Albany

JANET MACK, 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 December, 1975, she served the within Notice of Decision (or Determination) by (certified) mail upon Herbert Richheimer, ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Herbert Richheimer
23 Starlight Lane
Levittown, New York 11756

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~ 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 December, 1975.

Mary Groff

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HERBERT RICHHEIMER

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
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For a Redetermination of a Deficiency or
a Refund of Personal Income Tax
Taxes under Article ~~(ss)~~ 22 of the
Tax Law for the Year ~~(ss)~~ 1968

State of New York
County of Albany

JANET MACK, 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 December, 1975, she served the within Notice of Decision ~~(for Determination)~~ by (certified) mail upon Irwin A. Perlman, C.P.A.(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Irwin A. Perlman, C.P.A.
Alvin S. Schwartz & Co.
926 Sunrise Highway
Babylon, New York 11702
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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 December, 1975.

Mary Druff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
JAMES H. TULLY, JR., PRESIDENT
MILTON KOERNER

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227
AREA CODE 518

ADDRESS YOUR REPLY TO
Mr. Wright
Mr. Leisner
Mr. Coburn
(518) 457-3336

DATED: Albany, New York
December 1, 1975

Mr. Herbert Richheimer
23 Starlight Lane
Levittown, New York 11756

Dear Mr. Richheimer

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

Please take further notice that pursuant to
Section ~~(a)~~ **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.

Any 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.
These will be referred to the proper party for
reply.

Very truly yours,


Paul S. Coburn
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
HERBERT RICHHEIMER : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year :
1968. :

Petitioner, Herbert Richheimer, 23 Starlight Lane, Levittown, New York 11756, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1968. (File No. 11-1946520).

A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 25, 1975, at 10:45 A.M. On February 17, 1975, Irwin A. Perlman, C.P.A., petitioner's representative advised the State Tax Commission, in writing, that petitioner waived a formal hearing and requested that the State Tax Commission decide the case upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Was petitioner, Herbert Richheimer, liable for unpaid New York State withholding taxes due from Island Contractors, Inc., in the sum of \$978.80 for the period from April 1, 1968 to June 30, 1968, and \$127.40 for the period from October 1, 1968 to October 31, 1968?

FINDINGS OF FACT

1. Island Contractors, Inc. failed to pay over to the Income Tax Bureau New York State personal income taxes withheld from its employees for the period from April 1, 1968 to June 30, 1968 in the sum of \$978.80 and for the period from October 1, 1968 to October 31, 1968 in the sum of \$127.40. The corporation is presently defunct.

2. On October 26, 1971, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Herbert Richheimer, imposing a penalty in the sum of \$1,106.20, which was equal to the amount of unpaid withholding taxes alleged to be due from Island Contractors, Inc. for the period from April 1, 1968 to June 30, 1968, and from October 1, 1968 to October 31, 1968, upon the grounds that he was a person required to collect, truthfully account for and pay over said taxes and that he willfully failed to do so. In accordance with the aforesaid Statement of Deficiency, it issued a Notice of Deficiency against him in the sum of \$1,106.20.

3. Petitioner, Herbert Richheimer, was president and a stockholder of Island Contractors, Inc. during the year 1968. He failed to submit any documentary or other substantial evidence to prove that his alleged illness prevented him from collecting, accounting for and paying over the withholding taxes due for the periods in issue.

CONCLUSIONS OF LAW

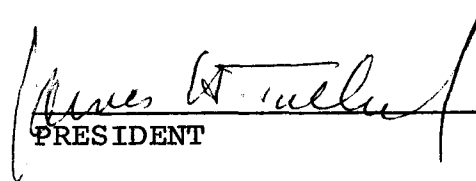
A. That petitioner, Herbert Richheimer, as an officer of Island Contractors, Inc. was a person required to collect, truthfully account for and pay over New York State withholding taxes in the sum of \$1,106.20 due from said corporation for the period from April 1, 1968 to June 30, 1968, and from October 1, 1968 to October 31, 1968, in accordance with the meaning and intent of section 674 and former section 685(1) of the Tax Law.


B. That since petitioner, Herbert Richheimer, willfully failed to collect, truthfully account for and pay over New York State withholding taxes due from Island Contractors, Inc. for the period from April 1, 1968 to June 30, 1968 in the sum of \$978.80 and from October 1, 1968 to October 31, 1968 in the sum of \$127.40, therefore, a penalty equal to the amount of unpaid withholding taxes was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That the petition of Herbert Richheimer is denied and the Notice of Deficiency issued October 26, 1971 is sustained.

DATED: Albany, New York
December 1, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER