

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ANTHONY C. STEIN

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~~ (x) 1970. :

State of New York
County of Albany

Catherine Steele, 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 4th day of October, 1976, she served the within
Notice of Decision by (certified) mail upon Anthony C. Stein

~~(representative of)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Mr. Anthony C. Stein
57 Bay Drive East
Huntington, New York 11743

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

4th day of October, 1976.

Catherine Steele

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:

October 4, 1976

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

Mr. Anthony C. Stein
57 Bay Drive East
Huntington, New York 11743

Dear Mr. Stein:

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

Please take further notice that pursuant to
Section ~~60~~ **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 J. Puccia

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~
Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
ANTHONY C. STEIN	:	DECISION
	:	
For a Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1970.	:	

Petitioner, Anthony C. Stein, 57 Bay Drive East, Huntington, New York 11743, filed a petition for a redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1970. (File No. 0-55525567). A small claims hearing was held June 10, 1976, at 1:15 P.M., before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter J. Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

ISSUES

Whether or not the amount included in alimony as a property settlement was a proper deduction.

Whether or not the Statement of Audit Changes dated May 21, 1973, is valid since it was revised from a previous Statement of Audit Changes.

Whether or not the agreement between the Federal Government and New York State which permits New York to audit returns and forward the resulting information to the Internal Revenue Service is constitutional.

FINDINGS OF FACT

1. Petitioner, Anthony C. Stein, timely filed a 1970 resident income tax return. In a revised Statement of Audit Changes dated May 21, 1973, the Income Tax Bureau reduced the life insurance premium modification from \$200.00 to \$150.00. Contributions claimed in the amount of \$465.00 were reduced to \$232.50. Of the \$3,900.00 claimed as an alimony deduction, \$1,250.00 was disallowed on the basis that such amount did not qualify as a periodic payment and was actually a property settlement. A Notice of Deficiency was issued May 21, 1973, in the amount of \$97.79 additional tax due plus \$12.32 interest for a total of \$110.11.

2. At the hearing, petitioner, Anthony C. Stein, conceded that the alimony in question was a property settlement. He also conceded that the life insurance adjustment was correct. Petitioner, Anthony C. Stein, introduced no evidence contesting the disallowance of contributions.

3. Petitioner, Anthony C. Stein, introduced no relevant evidence to the issues involved. His oral argument was that the Notice of Deficiency resulted from numerous harassing audits and was invalid and unconstitutional.

CONCLUSIONS OF LAW

A. That petitioner, Anthony C. Stein, failed to carry the burden of proof as required by section 689(e) of the Tax Law as to the deductions for alimony, contributions and life insurance premiums.

B. That the issue of constitutionality cannot be decided by administrative adjudication. However, it must be presumed that section 697(f), New York State Tax Law is constitutional.

C. There is no evidence of harassment of the petitioner by unnecessary audits or deviation from usual audit procedures.

D. That the revised Statement of Audit Changes dated May 21, 1973, is valid and correctly sets forth the final audit findings of the Income Tax Bureau.

E. That the petition of Anthony C. Stein is denied and the Notice of Deficiency is sustained.

DATED: Albany, New York
October 4, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER