

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE W. WHEELER

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) or Period(s)~~ 1972.

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 30th day of November, 1976, she served the within Notice of Decision by (certified) mail upon George W. Wheeler

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

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

Mr. George W. Wheeler
Box 443
Port Jefferson, New York 11777

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
30th day of November, 1976.

Catherine Steele

Janet Mack

In the Matter of the Petition

of

GEORGE W. WHEELER

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) or Period(s)~~ 1972. :

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 30th day of November, 1976, she served the within Notice of Decision by (certified) mail upon John F. Kroupa (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: John F. Kroupa, CPA
320 Main Street
Port Jefferson, New York
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
30th day of November, 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

November 30, 1976

TELEPHONE: (518) 457-3850

Mr. George W. Wheeler
Box 443
Port Jefferson, New York 11777

Dear Mr. Wheeler:

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 J. Puccia
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 :
GEORGE W. WHEELER : DECISION
for a Redetermination of a Deficiency :
or for a Refund of Personal Income Taxes :
Under Article 22 of the Tax Law for the :
Year 1972. :

Petitioner, George W. Wheeler, Box 443 Port Jefferson,
New York 11777, filed a petition for redetermination of a
deficiency or for a refund of personal income taxes under
Article 22 of the Tax Law for 1972 (File No. 2-19038143).
A small claims hearing was held before Joseph Chyrywat,
Hearing Officer, at the offices of the State Tax Commission,
Two World Trade Center, New York, New York on June 8, 1976
at 1:15 P.M. Petitioner was represented by John F. Kroupa,
C.P.A., 320 Main Street, Port Jefferson, New York. The
Income Tax Bureau was represented by Peter Crotty, Esq.,
(Frank Levitt, Esq. of counsel).

ISSUE

Are scientific journals and periodicals donated to
a college, allowable deductible contributions.

FINDINGS OF FACT

1. Petitioner, George W. Wheeler, timely filed a New York
State combined income tax return (IT208) for the year 1972.

(2)

On this return, the petitioner claimed a contribution for the donation of scientific journals to a college library in the sum of \$1,028.00.

2. The Income Tax Bureau issued a Statement of Audit Changes on December 26, 1973 and a Notice of Deficiency on July 29, 1974 against the petitioner, George W. Wheeler, in the sum of \$273.03 tax plus accrued interest. The tax due resulted from the disallowance of gifts donated to a college.

3. Petitioner, George W. Wheeler, a physicist, has been a member of numerous scientific societies from 1947 through 1972. The payment of membership dues by the petitioner to the American Physical Society, the Scientific Research Society of North America, and other societies entitled him to receive their publications, without additional cost.

4. Petitioner, has claimed miscellaneous deductions for membership dues paid to professional scientific societies on his income tax returns for 1972 and prior years.

5. Petitioner, donated journals and periodicals that he acquired from the scientific societies to Suffolk County Community College. The value of these journals, at the time of the donation, was \$878.00 which was determined per a catalogue of scientific, technical and medical journals published by Robert Maxwell and Co., Ltd.

(3)

CONCLUSIONS OF LAW

A. That the petitioner, George W. Wheeler, having claimed deductions in prior years for membership dues paid to professional societies for which he also received their publications, was in effect claiming a deduction for these publications which he subsequently donated and is not entitled to a double deduction as stated in Internal Revenue Ruling 55-138, 1955-1CB 223,225.

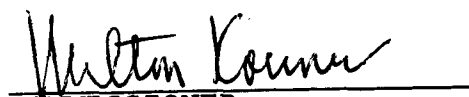
B. That the petitioner, George W. Wheeler, has failed to sustain his burden of proof as to his cost or other basis of the donated property, so as to determine the appreciated value of such property, if in fact, there was any.

C. That the petition of George W. Wheeler is denied and the Notice of Deficiency issued July 29, 1974 is sustained.

DATED: Albany, New York
November 30, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER