

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

AL FINE

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 (x) 1972.: :

State of New York  
County of Albany

Bruce Batchelor , 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 10th day of January , 1977, he served the within  
Notice of Decision by (certified) mail upon Al Fine  
~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Mr. Al Fine  
2260 Burnett Street  
Brooklyn, New York 11229

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)~~  
~~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

10th day of January , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

January 10, 1977

TELEPHONE: (518) **457-1723**

Mr. Al Fine  
2260 Burnett Street  
Brooklyn, New York 11229

Dear Mr. Fine:

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

Please take further notice that pursuant to  
Section(**X**) **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: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
AL FINE	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Taxes Under Article	:	
22 of the Tax Law for the Year 1972.	:	

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Petitioner, Al Fine, 2260 Burnett Street, Brooklyn, New York, has filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Article 22 of the Tax Law for the year 1972. (File No. 13-2618557). 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 August 24, 1976 at 2:45 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Is the petitioner subject to the penalties so imposed under section 685(g) of the Tax Law.

FINDINGS OF FACT

1. On June 30, 1975, the Income Tax Bureau issued a Notice of Deficiency against Al Fine in the sum of \$1,029.00 for the withholding tax period January 1, through November 30, 1972. This deficiency represents a penalty imposed under section 685(g) for the nonpayment of withholding taxes by Sedgco Enterprises.

2. On September 26, 1975, petitioner, Al Fine, filed a petition for redetermination of a deficiency of personal income tax for the period January 1, through November 20, 1972.

3. Petitioner, Al Fine, was employed by Sedgco Enterprises Inc. from February, 1972 through August, 1972. He was the sales manager for Sedgco at their Plainfield, New Jersey location. He supervised four salesman during his period of employment; however, he was not responsible for payroll disbursements made to these or any of Sedgco's employees.

4. Petitioner, Al Fine, was not authorized to sign checks for Sedgco Enterprises Inc.

5. Petitioner, Al Fine, did not own any capital stock in Sedgco Enterprises Inc.

6. Petitioner was not responsible for the withholding or payment of payroll taxes for Sedgco Enterprises Inc.

CONCLUSIONS OF LAW

A. That the petitioner, Al Fine, is not a "person" as defined in section 685(n) and is therefore not subject to the penalty imposed under section 685(g) of the Tax Law.

B. That the petition of Al Fine is granted and the Notice of Deficiency issued June 30, 1975 is cancelled.

DATED: Albany, New York  
January 10, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER