STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition   :

of

Sidney Steinberg   :

                                                        AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision   :

of a Determination or a Refund of

Personal Income Tax   :

under Article 22 of the Tax Law

for the Year 1970.   :

State of New York
County of Albany

     Jay Vredenburg, 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
28th day of September, 1979, he served the within notice of Decision by
certified mail upon Sidney Steinberg, the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
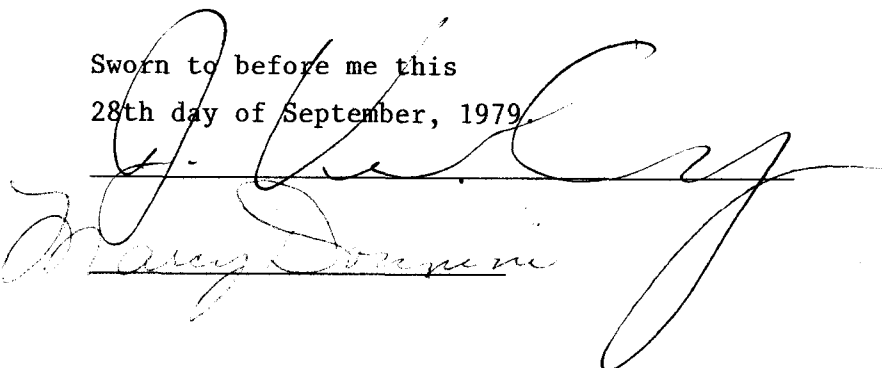as follows:

     Sidney Steinberg
     500 East 77th St.
     New York, NY 10021

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 petitioner herein
and that the address set forth on said wrapper is the last known address of the
petitioner.

Sworn to before me this
28th day of September, 1979

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 28, 1979

Sidney Steinberg
500 East 77th St.
New York, NY 10021

Dear Mr. Steinberg:

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

You have now exhausted your right of review at the administrative level.
Pursuant to section(s) 690 of the Tax Law, any proceeding in court to review
an adverse decision by the State Tax Commission can only be instituted under
Article 78 of the Civil Practice Laws and Rules, and must be commenced in the
Supreme Court of the State of New York, Albany County, within 4 months from
the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in
accordance with this decision may be addressed to the Deputy Commissioner and
Counsel to the New York State Department of Taxation and Finance, Albany, New
York 12227. Said inquiries will be referred to the proper authority for
reply.

Sincerely,

cc: Petitioner's Representative

     Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition   :

of   :

SIDNEY STEINBERG   :   DECISION

for Redetermination of a Deficiency or   :
for Refund of Personal Income Tax
under Article 22 of the Tax Law for   :
the Year 1970.   :

Petitioner, Sidney Steinberg, 500 East 77th Street, New York, New York
10021, filed a petition for redetermination of a deficiency or for refund of
personal income tax under Article 22 of the Tax Law for the year 1970 (File
No. 14222).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at
the offices of the State Tax Commission, Two World Trade Center, New York, New
York, on October 25, 1978 at 2:45 P.M. Petitioner appeared pro se. The
Income Tax Bureau appeared by Peter Crotty, Esq. (William Fox, Esq., of counsel).

ISSUE

Whether the Income Tax Bureau properly imposed penalties under section
685(a)(1) and 685(a)(2) of the Tax Law against petitioner for 1970.

FINDINGS OF FACT

1. The Income Tax Bureau issued a Statement of Audit Changes against
petitioner, Sidney Steinberg, for 1970, on the grounds that he did not answer
correspondence regarding his failure to file a New York State personal income
tax return for said year. Petitioner submitted a copy of the tax return
which, as he alleged, had been filed timely. The Income Tax Bureau revised
the Statement of Audit Changes. It based said revision on the copy of the tax
return submitted by petitioner. Penalties under sections 685(a)(1) and 685(a)(2)

of the Tax Law were included in the revised Statement of Audit Changes.
Petitioner partially paid the amount which appeared on the Statement. Accord-
ingly, the Income Tax Bureau issued a Notice of Deficiency against petitioner
on June 24, 1974 for $694.35 in personal income tax, plus $289.63 in penalty
and $133.40 in interest, for a total of $1,117.38.

2. The record indicates that a petition was filed timely (Exhibit "E").
The Income Tax Bureau issued a Notice and Demand for Payment of Income Tax Due
on October 24, 1974, on which it correctly recomputed the penalty in the
amount of $300.26. Petitioner paid the personal income tax and interest which
was due, but did not pay the penalty. On January 27, 1975, the Income Tax
Bureau issued a Notice of Refund Disallowance for $550.00. The $550.00 repre-
sented some but not all of the payments which petitioner previously submitted.

3. Petitioner contended that he filed his New York State personal income
tax return for 1970 timely; however, he did not submit documentary or any
other satisfactory evidence to support his contention.

4. The Income Tax Bureau claimed that several searches of its files
failed to show that petitioner filed a tax return for the year at issue. The
copy of the tax return which was submitted by petitioner was incorrectly
prepared and showed a balance of tax due on the line which is reserved for
refunds that are due. No evidence was submitted to show that the balance of
tax which was due was paid, or that the refund appearing on petitioner's copy
was subsequently requested by him.

CONCLUSIONS OF LAW

A. That petitioner failed to sustain the burden of proof which is imposed
by section 689(e) of the Tax Law, and which requires him to show that he filed
a timely New York State personal income tax return for 1970.

B. That the Income Tax Bureau properly imposed penalties under sections
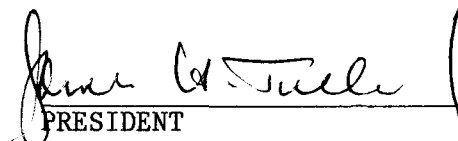
685(a)(1) and 685(a)(2) of the Tax Law against petitioner, for failing to file his return timely, or to pay the correct tax for 1970.
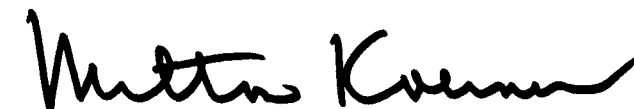
C. That the petition of Sidney Steinberg is denied, and the Notice of Refund Disallowance is sustained as it relates to partial payments. The penalty which is shown to be due on the Notice and Demand of $300.26 is sustained. This amount is due and is payable, together with any additional interest which may be lawfully owing.

DATED: Albany, New York
   SEP 2 8 1979

STATE TAX COMMISSION

_____
PRESIDENT

_____
COMMISSIONER

_____
COMMISSIONER