

STATE OF NEW YORK  
STATE TAX COMMISSION

Application  
In the Matter of the ~~Petitioner~~  
:  
of  
:  
MARVIN RAFAL  
:  
For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business:  
Taxes under Article(s) 16-A of the  
Tax Law for the (Year(s) 1957 :  
\_\_\_\_\_

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

State of New York  
County of Albany

Martha Funaro , 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 27th day of September , 1973 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Marvin Rafal

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

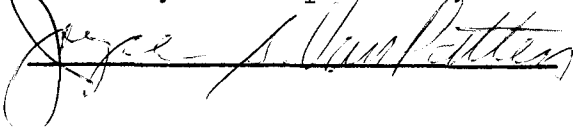
wrapper addressed as follows: Mr. Marvin Rafal  
33 Turner Drive  
New Rochelle, New York

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 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

27th day of September, 1973.





STATE OF NEW YORK  
STATE TAX COMMISSION

Application  
In the Matter of the ~~Petition~~  
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of  
MARVIN RAFAL & BEATRICE RAFAL :  
d/b/a MARVIN RAFAL ASSOCIATES :  
For a Redetermination of a Deficiency or :  
a Refund of Unincorporated Business :  
Taxes under Article(s) 16-A of the :  
Tax Law for the (Year(s) 1959 :  
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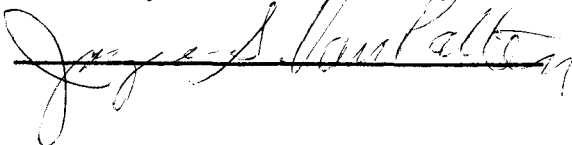
State of New York  
County of Albany

Martha Funaro , 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 27th day of September , 1973 , she served the within Notice of Decision (or Determination) by (certified) mail upon Marvin Rafal & Beatrice Rafal d/b/a (representative of) the petitioner in the within Marvin Rafal Associates proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Marvin Rafal  
d/b/a Marvin Rafal Associates  
33 Turner Drive  
New Rochelle, New York  
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STATE OF NEW YORK  
STATE TAX COMMISSION

Application

In the Matter of the ~~Petition~~

of

MARVIN RAFAL

For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business :  
Taxes under Article(s) 16-A of the  
Tax Law for the (Year(s))1957 :

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State of New York  
County of Albany

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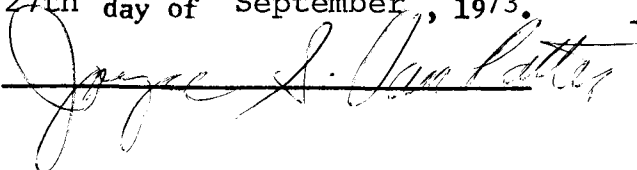
(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Jerome Margolies, C.P.A.  
225 West 34 Street  
New York, New York 10001

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Sworn to before me this

27th day of September, 1973.





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STATE TAX COMMISSION

Application  
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MARVIN RAFAL & BEATRICE RAFAL  
d/b/a MARVIN RAFAL ASSOCIATES  
:  
For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business:  
Taxes under Article(s) 16-A of the  
Tax Law for the (Year(s) 1959 :  
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State of New York  
County of Albany

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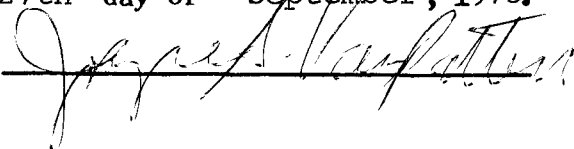
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27th day of September, 1973.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

Mario A. Procaccino,  
~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

September 27, 1973

Mr. Marvin Rafal  
33 Turner Drive  
New Rochelle, New York

Dear Mr. Rafal:

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

Please take further notice that pursuant to  
Section(s) **386j** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **90 Days**  
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,

**Nigel G. Wright**

HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

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457-2655, 6, 7

STATE TAX COMMISSION

Mario A. Procaccino,  
~~XXXXXXXXXXXX~~ ACTING PRESIDENT

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EDWARD ROOK

SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

September 27, 1973

Mr. & Mrs. Marvin Rafal  
d/b/a Marvin Rafal Associates  
33 Turner Drive  
New Rochelle, New York

Dear Mr. & Mrs. Rafal:

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HEARING OFFICER

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STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application :  
of :  
MARVIN RAFAL :  
for Revision or Refund of Unincorporated :  
Business Taxes under Article 16-A of the :  
Tax Law for the Year 1957. :

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DETERMINATION

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In the Matter of the Application :  
of :  
MARVIN RAFAL and BEATRICE RAFAL :  
d/b/a MARVIN RAFAL ASSOCIATES :  
for Revision or Refund of Unincorporated :  
Business Taxes under Article 16-A of the :  
Tax Law for the Year 1959. :

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Marvin Rafal filed an application for revision of unincorporated business taxes for the year 1957. Marvin Rafal and Beatrice Rafal, d/b/a Marvin Rafal Associates, filed an application for revision of unincorporated business taxes for the year 1959. The applications were denied. A hearing was demanded and duly held at the offices of the State Tax Commission, 80 Centre Street, New York City, before Vincent P. Molineaux, Hearing Officer. The applicants were represented by Jerome Margolies, C.P.A., and applicant, Marvin Rafal, was present.

The record of said hearing has been duly examined and considered.

ISSUES

The issues are (1) whether the income received by Marvin Rafal for 1957 was derived from his professional activity as a teacher so

as to be exempt from unincorporated business tax under Article 16-A of the Tax Law and (2) whether the applicants, Marvin Rafal and Beatrice Rafal, d/b/a Marvin Rafal Associates, during 1959 received income from a professional partnership so as to be exempt from unincorporated business taxes under Article 16-A of the Tax Law.

#### FINDINGS OF FACT

1. The Income Tax Bureau assessed additional unincorporated business taxes amounting to \$150.68 by a Notice of Additional Assessment (#B784128) dated May 23, 1960, against applicant, Marvin Rafal, for the year 1957. As to the year 1959, by a Notice of Additional Assessment (#B817086), dated October 19, 1960, the Bureau assessed additional unincorporated business taxes in the amount of \$268.39. These assessments have not been paid.

2. Applicant, Marvin Rafal, has had university training in education and psychology and had served from 1947 to 1953 on the faculty of Rutgers University in the Department of Marketing.

3. Under consideration for the years 1957 and 1959, the gross income of applicants was derived mostly from fees received from various companies and trade associations by applicant, Marvin Rafal, for giving general courses in business management and related areas generally to management employees. The course syllabus that applicant, Marvin Rafal, developed while at Rutgers University is similar to the one now used by him at these business seminars.



4. Marvin Rafal had no employees for 1957 and operated these business seminars by himself.

5. In 1958, Marvin Rafal formed a partnership with his wife, Beatrice Rafal, under the name of Marvin Rafal Associates. Marvin Rafal continued to do business as Marvin Rafal Associates and at times employed professors from local colleges and universities to help him in conducting these seminars. There is no evidence to establish that applicant, Beatrice Rafal, was engaged in any professional capacity in the teaching of the courses conducted by Marvin Rafal Associates. No evidence has been submitted to establish that applicant, Beatrice Rafal, has had any specialized training or knowledge needed to aid in the conduct of these seminars.

#### CONCLUSIONS OF LAW

A. The applicant, Marvin Rafal, was engaged in the profession of teaching business management courses during 1957 and income he received therefrom is exempt from unincorporated business taxes under Article 16-A for the year 1957.

B. The partnership of Marvin Rafal, a professional engaged in teaching business management seminars, and Beatrice Rafal, a nonprofessional rendering no professional services to said partnership, d/b/a Marvin Rafal Associates, is not a professional partnership and income received therefrom by applicants is not exempt under section 386 of the Tax Law for the year 1959.

#### DETERMINATION

The application is granted with respect to 1957 and the

additional assessment for 1957 (#B784128) is hereby cancelled.

The application with respect to 1959 is denied and the additional assessment for 1959 (#B817086) is affirmed together with such interest and additional charges, if any, as may be due pursuant to sections 376 and 377 of the Tax Law.

DATED: Albany, New York  
September 27, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER