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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWIN KRAUTER

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(s) 22 of the  
Tax Law for the (Year(s) 1967

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 5th day of March, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon EDWIN KRAUTER (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Edwin Krauter  
255 Mill Pond Road  
Stamford, Connecticut 06903

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

5th day of March, 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

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of  
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State of New York  
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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 5th day of March, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon ANTHONY R. LORENZO, ESQ. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Anthony R. Lorenzo, Esq.  
1116 Summer Street, Suite 3-E  
Stamford, Connecticut 06905

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  
5th day of March, 1973

Lynn Wilson  
Martha Funaro



STATE OF NEW YORK  
 DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A  
 STATE CAMPUS  
 ALBANY, N. Y. 12227

AREA CODE 518  
 457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT  
 A. BRUCE MANLEY  
 MILTON KOERNER

STATE TAX COMMISSION  
 HEARING UNIT

EDWARD ROOK  
 SECRETARY TO  
 COMMISSION

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**March 5, 1973**

**Edwin Krauter**  
**255 Mill Pond Road**  
**Stanford, Connecticut 06903**

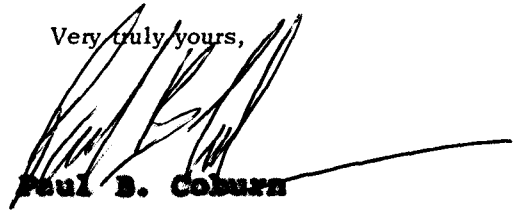
**Dear Mr. Krauter:**

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 decision  
 must be commenced within **4 months** after  
 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 relat-  
 ing hereto may be addressed to the undersigned. These will be referred  
 to the proper party for reply.

Very truly yours,



**Paul B. Coburn**  
 HEARING OFFICER

cc Petitioner's Representative  
 Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
EDWIN KRAUTER :

for Redetermination of Deficiency or for :  
Refund of Personal Income Tax under :  
Article 22 of the Tax Law for the Year :  
1967. :

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DECISION

Petitioner, Edwin Krauter, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1967. (File No. 11-2021402). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on December 13, 1972, at 2:45 P.M. Petitioner appeared by Anthony R. Lorenzo, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of Counsel).

ISSUE

Is petitioner, Edwin Krauter, liable for unpaid New York State withholding taxes due from Arim Industries Corp. for the period January through March, 1967?

FINDINGS OF FACT

1. Arim Industries Corp. failed to pay over to the Income Tax Bureau New York State personal income taxes withheld from its employees for the period from January through March, 1967, in the sum of \$1,433.70. The corporation is presently insolvent.

2. On April 13, 1970, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Edwin Krauter, equal to the amount of New York State withholding taxes due from Arim Industries Corp. for the period from January through March, 1967, upon the grounds that he was a person required to collect, truthfully account for, and pay over said taxes and that he willfully failed to do so. It accordingly issued a Notice of Deficiency against him in the sum of \$1,433.70.

3. During the period January through March, 1967, petitioner, Edwin Krauter, was not an officer, director, stockholder or employee of Arim Industries Corp. He did not take an active part in the management or conduct its business activities. He did not sign corporate checks or tax returns or designate which corporate liabilities were to be paid.

4. During the period January through March, 1967, Dimensional Designs, Inc. was the owner of all of the stock of Arim Industries Corp. Petitioner, Edwin Krauter, owned 50% of the stock of Dimensional Designs, Inc. However, he was not an officer, director or employee nor was he authorized to sign corporate checks of Dimensional Designs, Inc.

#### CONCLUSIONS OF LAW

A. That petitioner, Edwin Krauter, was not a person required to collect, truthfully account for, and pay over New York State personal income withholding taxes due from Arim Industries Corp. for the period January through March, 1967, in accordance with the

meaning and intent of sections 674 and 685(1) of the Tax Law.

B. That since petitioner, Edwin Krauter, was not a person required to collect, truthfully account for and pay over New York State personal income withholding taxes due from Arim Industries Corp. for the period January through March, 1967, therefore a penalty equal to the total amount of unpaid withholding taxes was improperly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.


C. That the petition of Edwin Krauter is granted and the Notice of Deficiency issued April 13, 1970, is cancelled.

DATED: Albany, New York  
March 5, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER