# **POOR** QUALITY THE FOLLOWING DOCUMENT (S) ARE FADED &BLURRED

PHOTO MICROGRAPHICS INC.

In the Matter of the Petition

of

BETTY LOTTO

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

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

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 March, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon BETTY LOTTO (representative of) the petitioner in the within

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

Betty Lotto

5105 Foster Avenue Brooklyn, New York 11203

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custedy 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 March , 1973.

Jantha Demaro



STATE OF NEW YORK

## DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

BUILDING 9, ROOM 214A STATE CAMPUS

ALBANY, N. Y. 12227 AREA CODE 518

457-2655, 6, 7

DATED: Albany, New York

March 27, 1973

Betty Lotto 5105 Poster Avenue Brooklyn, New York 11203

Dear Mrs. Lotto:

Please take notice of the

DECISION

of

STATE TAX COMMISSION HEARING UNIT

EDWARD ROOK

SECRETARY TO

COMMISSION

ADDRESS YOUR REPLY TO

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 relating hereto may be addressed to the undersigned. These will be referred to the proper party for reply.

Faul B. Coburn HEARING OFFICER

cc Petitioner's Representative Law Bureau

#### STATE OF NEW YORK

### STATE TAX COMMISSION

In the Matter of the Petition

of

BETTY LOTTO

DECISION

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

Petitioner, Betty Lotto, has filed a petition for redetermination of deficiency or for refund of personal income tax for the year 1967. (File No. 11-2013849). 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 January 26, 1973, at 9:00 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

#### **ISSUE**

Was petitioner, Betty Lotto, liable for unpaid New York State withholding taxes due from Hercules Wrecking Co., Inc. for the month of June, 1967?

### FINDINGS OF FACT

- 1. Hercules Wrecking Co., Inc. failed to pay over to the Income Tax Bureau, New York State personal income taxes withheld from its employees for the month of June, 1967, in the sum of \$3,435.79. The corporation is presently defunct.
- 2. On September 29, 1969, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Betty Lotto, equal to the amount of New York State withholding taxes due from Hercules Wrecking Co., Inc. for the month of June, 1967, upon

the grounds that she was a person required to collect, truth-fully account for and pay over said taxes, and that she willfully failed to do so. It accordingly issued a Notice of Deficiency against her in the sum of \$3,435.79.

- 3. Petitioner, Betty Lotto, was president of Hercules Wrecking Co., Inc. during the year 1967. She signed the corporation's monthly return of New York State personal income tax withheld for the month of June, 1967. The amount of tax withheld was \$3,435.79. The return was forwarded to the New York State Income Tax Bureau without payment.
- 4. Petitioner, Betty Lotto, conceded at the formal hearing that she was a responsible officer of Hercules Wrecking Co., Inc. during the year 1967, but contended that the amount of the deficiency was incorrect. She failed to submit any documentary or other substantial evidence to prove her allegation.

### CONCLUSIONS OF LAW

- A. That petitioner, Betty Lotto, as an officer of Hercules Wrecking Co., Inc. was a person required to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the month of June, 1967, in accordance with the meaning and intent of sections 674 and 685(1) of the Tax Law.
- B. That since petitioner, Betty Lotto, willfully failed or caused Hercules Wrecking Co., Inc. to willfully fail to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the month of June, 1967, therefore a penalty equal to the total amount of the unpaid withholding taxes was properly assessed against her in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That the petition of Betty Lotto is denied and the Notice of Deficiency issued September 29, 1969, is sustained.

DATED: Albany, New York March 27, 1973

STATE TAX COMMISSION

COMMISSIONER

COMMISSIONER

COMMISSIONER