

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

JULES GOLDNER

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) 1964

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

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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 31st day of January , 19 74, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Jules Goldner

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

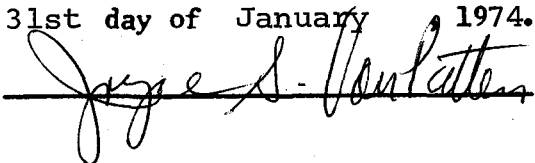
wrapper addressed as follows: Mr. Jules Goldner  
57 Montague Street  
Brooklyn, New York 11201

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

31st day of January 1974.







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  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION  
Mario A. Procaccino  
~~NORMAN P. SALAMAN, XXXXX~~ PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York  
January 31, 1974

Mr. Jules Goldner  
57 Montague Street  
Brooklyn, New York 11201

Dear Mr. Goldner:

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

Please take further notice that pursuant to  
Section(s) **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.

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,

  
Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
JULES GOLDNER :  
for Redetermination of Deficiency or :  
for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for :  
the Year 1964. :  
: DECISION

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Petitioner, Jules Goldner, 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 1964. (File No. 13-1943871.) 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 November 14, 1973, at 10:45 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

ISSUES

I. Was petitioner, Jules Goldner, liable for unpaid New York State withholding taxes due from Lex Press Inc. for the period from January 1, 1964 through April 7, 1964.

II. Was the Notice of Deficiency issued May 25, 1970, against petitioner, Jules Goldner, barred by the statute of limitations.

FINDINGS OF FACT

1. Lex Press Inc. failed to pay over to the Income Tax Bureau New York State personal income taxes withheld from its

employees for the period from January 1, 1964 through April 7, 1964, in the sum of \$733.70. The corporation is presently defunct.

2. On May 25, 1970, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Jules Goldner, imposing a penalty equal to the amount of New York State withholding taxes due from Lex Press Inc. for the period from January 1, 1964 through April 7, 1964, 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. In accordance with the aforesaid Statement of Deficiency, it issued a Notice of Deficiency against him in the sum of \$733.70.

3. Petitioner, Jules Goldner, was president, a director and a 25% shareholder of Lex Press Inc. during the period from January 1, 1964 through April 7, 1964. He had held these positions since the formation of the corporation in 1961. He initially invested \$20,000.00 in the corporation. In 1963 the corporation's financial condition began to deteriorate and so he invested an additional \$12,000.00 in an attempt to save it. He was aware of the financial condition of the corporation in 1964. He signed corporate checks.

4. Lex Press Inc. failed to file a New York State Income Tax Bureau Employer's Return of Personal Income Tax Withheld (form IT-2101(PNS)) for the period from January 1, 1964 through April 7, 1964.

CONCLUSIONS OF LAW

A. That petitioner, Jules Goldner, as an officer of Lex

Press Inc. was a person required to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the period from January 1, 1964 through April 7, 1964, in accordance with the meaning and intent of sections 674 and 685(1) of the Tax Law.

B. That petitioner, Jules Goldner, willfully failed to collect, truthfully account for and pay over New York State withholding taxes due from Lex Press Inc. for the period from January 1, 1964 through April 7, 1964, and therefore a penalty equal to the amount of the unpaid withholding taxes was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That since Lex Press Inc. failed to file a New York State Income Tax Bureau Employer's Return of Personal Income Tax Withheld (form IT-2101(PNS) for the period from January 1, 1964 through April 7, 1964, therefore a penalty equal to the amount of unpaid withholding taxes could be assessed by the Income Tax Bureau at any time against the corporation's officers responsible for its collection and payment, including petitioner, Jules Goldner, in accordance with the meaning and intent of section 683(c)(1)(A) of the Tax Law.

D. That the petition of Jules Goldner is denied and the Notice of Deficiency issued May 25, 1970, is sustained.

DATED: Albany, New York  
January 31, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER