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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HAROLD GOTTLIEB

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

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(*)~~ 22 of the
Tax Law for the Year ~~(*)~~ 1968

State of New York
County of Albany

Janet Mack , 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 4th day of November , 1974 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Harold Gottlieb

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Harold Gottlieb
22 Red Ground Road
Old Westbury, 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)~~
~~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
4th day of November , 19 74

Martha Durano

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HAROLD GOTTLIEB

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article (x) 22 of the
Tax Law for the Year (x) 1968

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

State of New York
County of Albany

Janet Mack , 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 4th day of November , 1974 , she served the within Notice of Decision (or Determination) by (certified) mail upon Robert Mirsky, C.P.A.

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Robert Mirsky, C.P.A.

114 East 32nd Street
New York, New York 10016

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

4th day of November , 19 74

Martha Susser

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
November 4, 1974

Mr. Harold Gottlieb
22 Red Ground Road
Old Westbury, New York

Dear Mr. Gottlieb:

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

Please take further notice that pursuant to
Section (5) **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

AD-1.12 (8/73)

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
HAROLD GOTTLIEB : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1968. :

Petitioner, Harold Gottlieb, has filed a petition for a redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1968. (File No. 11-1690878).

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 September 19, 1973, at 10:45 A.M. Petitioner appeared by Robert Mirsky, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James A. Scott, Esq., of counsel).

ISSUE

Is petitioner, Harold Gottlieb, liable for unpaid New York State withholding taxes due from Hygrade Packaging Corporation for the periods from July 16 through July 31 and December 1 through December 20, 1968?

FINDINGS OF FACT

1. Hygrade Packaging Corporation failed to pay over New York State personal income taxes withheld from its employees for the period from July 16 through July 31, 1968, in the sum of \$619.40 and from December 1 through December 20, 1968, in the sum of \$331.52.

2. On August 25, 1969, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Harold Gottlieb, imposing a penalty equal to the unpaid New York State withholding taxes due from Hygrade Packaging Corporation for the period from July 16 through July 31, and for the period December 1 through December 20, 1968, 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 \$950.92.

3. Petitioner, Harold Gottlieb, was President at Hygrade Packaging Corporation during the year 1968.

4. Petitioner, Harold Gottlieb, conceded his liability for unpaid New York State withholding taxes due from Hygrade Packaging Corporation for the period from July 16 through July 31, 1968.

5. Hygrade Packaging Corporation filed a petition in bankruptcy on December 20, 1968, and was adjudicated bankrupt on January 29, 1969. A trustee, William N. Otte, was appointed to take over the administration of the bankrupt company. However, petitioner, Harold Gottlieb, submitted no proof as to when he left the company or when Mr. Otte was appointed trustee.

CONCLUSIONS OF LAW

A. That petitioner, Harold Gottlieb, as an officer of Hygrade Packaging Corporation was a person required to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the periods from July 16 through July 31 and from December 1 through December 20, 1968, in accordance with the meaning and intent of sections 674 and 685(1) of the Tax Law.

B. That since petitioner, Harold Gottlieb, willfully failed or caused Hygrade Packaging Corporation to willfully fail to collect, truthfully account for and pay over New York State withholding taxes due

from said corporation for the periods from July 16 through July 31 and from December 1 through December 20, 1968; therefore, a penalty equal to the total amount of the unpaid taxes was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That the petition of Harold Gottlieb is denied and the Notice of Deficiency issued August 25, 1969, is sustained.

DATED: Albany, New York
November 4, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER