

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH A. SPADARO

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) 1965

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 30th day of October , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Joseph A. Spadaro

(~~representative of~~) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. Joseph A. Spadaro

624 Halstead Avenue  
Mamaroneck, New York 10543

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~~)  
~~xx~~ 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

30th day of October , 1974



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

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

**DATED:** Albany, New York  
**October 30, 1974**

**Mr. Joseph A. Spadaro**  
**624 Halstead Avenue**  
**Mamaroneck, New York 10543**

**Dear Mr. Spadaro:**

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

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

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In the Matter of the Petition	:	
of	:	
JOSEPH SPADARO	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1965.	:	

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Petitioner, Joseph Spadaro, 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 1965. (File No. 13-2537610.) 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 1:30 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUE

Is petitioner, Joseph Spadaro, liable for unpaid New York State withholding taxes due from Shook Studios Assoc., Inc. for the year 1965?

FINDINGS OF FACT

1. On November 30, 1967, the Income Tax Bureau issued a Notice and Demand for Unpaid Withholding Tax Due against Shook Studios Assoc., Inc. for the year 1965. It stated that the tax due for said year was \$586.20, that the tax paid for said year was \$386.20 and that the balance of tax due for said year was \$200.00 plus penalties and interest of \$76.95. The corporation did not pay said sum of \$276.95.

2. On January 27, 1969, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Joseph Spadaro, imposing a penalty equal to the amount of the balance of New York State withholding taxes due from Shook Studios Assoc., Inc. for the year 1965 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 \$200.00.

3. Petitioner, Joseph Spadaro, conceded at the formal hearing that he was a responsible officer of Shook Studios Assoc., Inc. during the year 1965, but he contended that all New York State withholding taxes for said year had been paid. He, however, failed to submit any documentary or other substantial evidence to prove that the balance of \$200.00 in New York State withholding taxes due had been paid.

#### CONCLUSIONS OF LAW

A. That petitioner, Joseph Spadaro, as an officer of Shook Studios Assoc., Inc. was a person required to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the year 1965 in accordance with the meaning and intent of section 674 and 685(1) of the Tax Law.

B. That since petitioner, Joseph Spadaro, willfully failed to collect, truthfully account for and pay over New York State withholding taxes due from Shook Studios Assoc., Inc. for the year 1965, therefore, a penalty equal to the amount of the


balance 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. He failed to prove that the total amount of withholding taxes due for said year had been paid.

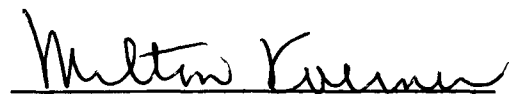
C. That the petition of Joseph Spadaro is denied and the Notice of Deficiency issued January 27, 1969, is sustained.

DATED: Albany, New York  
October 30, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER