

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SYDNEY S. ALBERTS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the Year(s) or Period(s) 1970 :  
~~XXXXX~~

State of New York  
County of Albany

Marsina Donnini, 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 June, 1977, she served the within  
Notice of Decision by (certified) mail upon Sydney S. Alberts

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Sydney S. Alberts  
56 Berkeley Avenue  
Yonkers, New York 10705

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~  
~~of the~~ 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 June, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 30, 1977

TELEPHONE: (518) 457-1723

Mr. Sydney S. Alberts  
56 Berkeley Avenue  
Yonkers, New York 10705

Dear Mr. Alberts:

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.

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. They  
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia  
Supervisor of Small Claims Hearings

Enc.

cc: ~~Rebillion's Representative~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
SYDNEY S. ALBERTS	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1970.	:	

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Petitioner, Sydney S. Alberts, residing at 56 Berkeley Avenue, Yonkers, New York 10705, has filed a petition for re-determination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970. (File No. 12511).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on October 19, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (William Fox, Esq. of counsel).

#### ISSUE

Whether the petitioner, Sydney S. Alberts, was a responsible person required to collect, truthfully account for and pay over

New York State withholding taxes of Charma Foundations, Incorporated for the year 1970.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Sidney S. Alberts, was the president and director of Charma Foundations, Incorporated during the year 1970. On June 30, 1970, he resigned from said corporation and sold all his stock in said company.

2. Petitioner admitted that he was a responsible person for the period January 1, 1970 to June 30, 1970.

3. The total amounts of tax withheld by said company for the year 1970 amounted to \$1,175.40, of which \$305.50 was paid with respect to withholding taxes due for the period September 1, to December 31, 1970. The balance of \$869.90 represented the amount due for the period January 1, 1970 to August 31, 1970, of which \$75.00 represented the amount withheld for the months of July and August of 1970.

4. Petitioner loaned monies to Charma Foundations, Incorporated. He maintained that a portion of said monies was for the payment of the New York State withholding taxes accrued for the period January 1, 1970 through June 30, 1970. The Income Tax Bureau does not have any record of receiving payment of said taxes.

5. That the petitioner has not sustained the burden of proof necessary to substantiate that said withholding taxes were paid.

6. That the petitioner, Sydney S. Alberts, was a responsible person required to collect, truthfully account for and pay over to New York State withholding taxes due from Charma Foundations, Incorporated for the period January 1, 1970 through June 30, 1970 in the sum of \$794.90, in accordance with the meaning and intent of section 685(n) of the Tax Law.

7. That the petitioner was not a responsible person required to collect, truthfully account for and pay over New York State withholding taxes of Charma Foundations, Incorporated for the months July and August of 1970 in the sum of \$75.00.

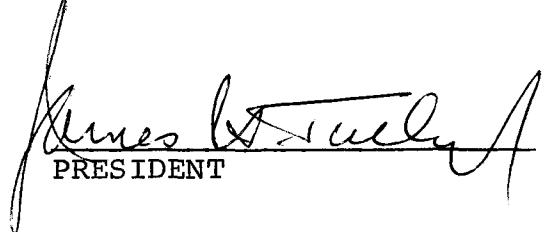
8. That petitioner, Sydney S. Alberts, willfully failed or caused Charma Foundations, Incorporated to willfully fail to collect, truthfully account for and pay over to New York State the withholding taxes due from said corporation for the period January 1, 1970 through June 30, 1970 and; therefore, a penalty equal to the total amount of the unpaid withholding taxes due for said period in the amount of \$794.90 was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

9. The petition of Sydney S. Alberts is granted to the extent of reducing the deficiency by \$75.00.

10. The Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued April 11, 1975 and; that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York  
June 30, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER