

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MARSHALL D. & GERALDINE F. BRODSKY

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (x) 22 of the :  
Tax Law for the Year (s) ~~xxxx Period(s)~~ 1971. :

State of New York  
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that  
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 12th day of May , 1977, ~~he~~ served the within  
Notice of Decision by (certified) mail upon Marshall D. & Geraldine F.  
Brodsky (~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. & Mrs. Marshall D. Brodsky  
28 Hammersley Avenue  
Poughkeepsie, New York 12641

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 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

12th day of May , 1977.

Bruce Batchelor

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

May 12, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. Marshall D. Brodsky  
28 Hammersley Avenue  
Poughkeepsie, New York 12641

Dear Mr. & Mrs. Brodsky:

Please take notice of the **DECISION**  
of 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 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: ~~XXXXXXXXXXXXXXXXXXXX~~  
~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

## STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
MARSHALL D. & GERALDINE F. BRODSKY :  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for the :  
Year 1971. :

## DECISION

Petitioners, Marshall D. and Geraldine F. Brodsky, residing at 28 Hammersler Avenue, Poughkeepsie, New York 12641, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1971. (File No. 01137).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on August 18, 1976, at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner, Geraldine F. Brodsky. The Income Tax Bureau appeared by Peter Crotty, Esq., (I.A. Levy, Esq., of counsel).

## ISSUE

Whether petitioners are liable for New York State personal income tax which was not withheld from the 1971 wages of Marshall D. Brodsky.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. During 1971, petitioner, Marshall D. Brodsky, was a resident of New York, employed by the Ventron Corporation, a Pennsylvania corporation. The petitioner was paid from and operated from an office in Poughkeepsie, New York.

2. Petitioner contended that since the Ventron Corporation was required to deduct and withhold New York taxes from his salary and failed to do so; the corporation is liable pursuant to the Tax Law and therefore, petitioner should not be held liable for such taxes.

3. The Ventron Corporation withheld \$186.89 from the petitioner's salary and forwarded that amount to the State of Pennsylvania. However, the petitioner did not file a tax return with the State of Pennsylvania. Petitioner, Marshall D. Brodsky, waived his original claim for credit for taxes paid to the State of Pennsylvania.

4. Although petitioner, Marshall D. Brodsky's employer failed to withhold his New York State income tax, the petitioners are liable for the personal income taxes due for the year 1971 under Article 22 of the Tax Law.

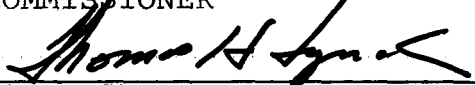
5. The petition of Marshall D. and Geraldine F. Brodsky is denied and the Notice of Deficiency issued September 30, 1974 is sustained.

DATED: Albany, New York  
May 12, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER