

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
JOHN COTOGGIO

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) 1973~~ Period(s) :  
November 1, 1973 through November 30, 1973-

State of New York  
County of Albany

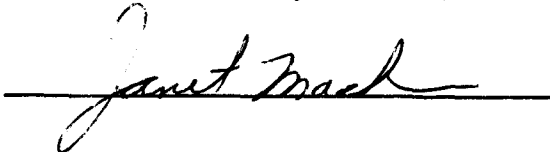
Marsina Donnini, being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 15<sup>th</sup> day of July, 1977, she served the within  
Notice of Decision by (certified) mail upon John Cotoggio  
~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. John Cotoggio  
6-08 119th Street  
College Point, New York 11356  
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)~~  
~~XXXXXX~~ 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

15<sup>th</sup> day of July, 1977.

  
Marsina Donnini

  
Janet Mack



STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

July 15, 1977

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

Mr. John Cotoggio  
6-08 119th Street  
College Point, New York 11356

Dear Mr. Cotoggio:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~(2)~~ **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 Months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

JOSEPH CHYRYWATY  
Hearing Examiner

cc: ~~Taxing Bureau's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
JOHN COTOGGIO	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Period November 1, 1973 through	:	
November 30, 1973.	:	

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Petitioner, John Cotoggio, residing at 6-08 119th Street, College Point, New York 11356, has filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the period November 1, 1973 through November 30, 1973. (File No. 13451).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on March 9, 1977 at 1:15 P.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 petitioner, John Cotoggio, is liable for New York State withholding taxes due from Craft Electronics, Inc. for the period of November 1, 1973 through November 30, 1973.

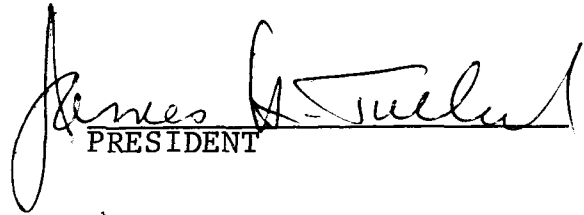
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Craft Electronics, Inc. failed to pay over New York State withholding taxes due for the period November 1, 1973 through November 30, 1973.
2. Petitioner was president of Craft Electronics, Inc. during the period at issue.
3. Petitioner conceded that he was a person required to collect, truthfully account for and pay over New York State withholding taxes.
4. Petitioner could not explain the failure of Craft Electronics, Inc. to pay over New York State withholding taxes due for the period at issue.
5. Petitioner was unaware of the failure of Craft Electronics, Inc. to pay over New York State withholding taxes since he had delegated to an employee the task of paying said taxes and he did not oversee the actual payment of the withholding taxes thereafter.
6. Petitioner has not sustained the burden of proof necessary to substantiate that he did not willfully fail, or cause Craft Electronics, Inc. to willfully fail, to collect, account for or pay over New York State withholding taxes due from said corporation in accordance with the meaning and intent of section 685(g) of the Tax Law; therefore the penalty equal to the total amount of unpaid withholding taxes due from Craft Electronics, Inc. was properly assessed.

7. The petition of John Cotoggio is denied and the Notice of Deficiency issued on August 25, 1975 in the sum of \$695.20 is sustained.

DATED: Albany, New York  
July 15, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER