

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RAYMOND DEBRINO (DECEASED)

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article ~~(9)~~ 22 of the  
Tax Law for the Year(s) ~~XXXXXX~~  
1969, 1970, 1971, 1972 and 1973.

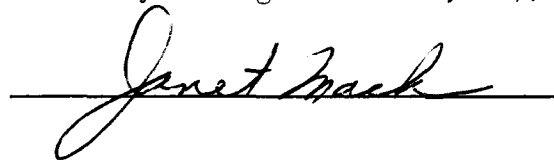
State of New York  
County of Albany

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 26 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Raymond Debrino (Dec'd) ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Raymond Debrino (Deceased)  
Maple Lane Road  
Valatie, New York 12184 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)~~ ~~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  
26th day of August, 1977.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RAYMOND DEBRINO (DECEASED)

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article ~~(13)~~ 22 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1969, 1970, 1971, 1972 and 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 26 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Richard V.

D'Alessandro, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Richard V. D'Alessandro, Esq.  
99 Washington Avenue  
Albany, 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 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

26th day of August, 1977.

Marsina Donnini

Janet Mack



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

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

August 26, 1977

**Mr. Raymond Debrino (Deceased)**  
**Maple Lane Road**  
**Valatie, New York 12184**

**Dear Mr. Debrino:**

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(s) **590** 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,

**Paul B. Coburn**  
**Supervising Tax**  
**Hearing Officer**

cc: Petitioner's Representative  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
RAYMOND DEBRINO (DECEASED) : DECISION  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for the :  
Years 1969, 1970, 1971, 1972 and 1973. :

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Petitioner, Raymond Debrino (Deceased), Maple Lane Road, Valatie, New York 12184, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969, 1970, 1971, 1972 and 1973. (File No. 13141).

On June 10, 1977, the petitioner's representative, Richard V. D'Alessandro, Esq., waived a formal hearing and requested that the State Tax Commission decide the case upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUES

I. Whether petitioner, Raymond Debrino, was a person required to collect, truthfully account for and pay over the withholding taxes of the employees of Debrino Caulking Corp. and

Debrino, Inc., within the meaning and intent of section 685(n) of the Tax Law for the years 1969, 1970, 1971, 1972 and 1973; and if so required, whether petitioner willfully failed or caused Debrino Caulking Corp. and Debrino, Inc. to willfully fail to collect, truthfully account for and pay over the withholding taxes of said corporations within the meaning and intent of section 685(g) of the Tax Law.

II. Whether the Notice of Deficiency issued by the Income Tax Bureau on October 21, 1974, against petitioner, Raymond Debrino, is barred by the statute of limitations with regard to the years 1969 and 1970.

FINDINGS OF FACT

1. Debrino Caulking Corp. and Debrino, Inc., failed to pay over to the Income Tax Bureau, New York State personal income taxes withheld from their employees in the sum of \$1,488.10 in 1969, \$1,234.66 in 1970, \$940.60 in 1971, \$7,737.90 in 1972 and \$4,944.10 in 1973.

2. On August 28, 1974, the Income Tax Bureau issued a Jeopardy Assessment pursuant to section 694(a) of the Tax Law in the sum of \$14,701.46 for the years 1969, 1970, 1971, 1972 and 1973, in the belief that the assessment or collection of a deficiency will be jeopardized by delay. Accordingly, on October 21, 1974, a Notice of Deficiency was issued by the Income Tax Bureau against petitioner, Raymond Debrino, imposing

a deficiency consisting of \$1,488.10 for 1969, \$1,234.66 for 1970, \$940.60 for 1971, \$5,235.80 for 1972 and \$5,802.30 for 1973, thus totalling \$14,701.46.

3. On February 25, 1975, the Income Tax Bureau sent a letter and claim adjusting the Notice of Deficiency in Finding of Fact "2", supra, by adding \$2,502.10 for the year 1972 and by amending the 1973 claim to \$4,944.10, to reflect allowance for payments not previously credited.

4. Petitioner, Raymond Debrino, offered no documentary or other substantial evidence that he was not a person required to collect, truthfully account for and pay over the withholding taxes in issue.

5. The two corporations which withheld the taxes in issue carried the surname of petitioner, Raymond Debrino.

#### CONCLUSIONS OF LAW

A. That petitioner, Raymond Debrino, was a person with a duty to collect, truthfully account for and pay over withholding taxes of Debrino Caulking Corp. and Debrino, Inc., for the years 1969, 1970, 1971, 1972 and 1973 within the meaning and intent of section 685(n) of the Tax Law, and that the petitioner did willfully fail or cause Debrino Caulking Corp. and Debrino, Inc., to willfully fail to collect, truthfully account for and pay over

said taxes for said period within the meaning and intent of section 685(g) of the Tax Law.

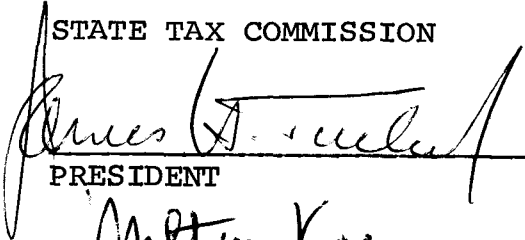
B. That the Notice of Deficiency issued by the Income Tax Bureau on October 21, 1974 against petitioner, Raymond Debrino, is barred by the statute of limitations with regard to the years 1969 and 1970.

C. That the petition of Raymond Debrino is granted to the extent indicated by Conclusion of Law "B", supra; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued October 24, 1974 as amended by the letter of February 25, 1975; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

August 26, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER