

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petitioner

of

MURRAY GOLDSTEIN

AFFIDAVIT OF MAILING

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

State of New York  
County of Albany

John Huhn , 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 15th day of September , 1977, ~~he~~ served the within  
Notice of Decision by (certified) mail upon Murray Goldstein

~~(representative of)~~ the petitioner in the within proceeding,

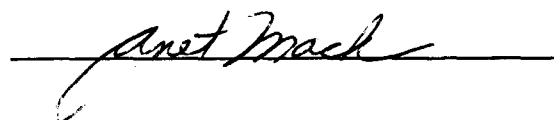
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Mr. Murray Goldstein  
4740 Bedford Avenue  
Brooklyn, New York 11235

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  
15th day of September , 1977.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MURRAY GOLDSTEIN

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) or Period (s)~~ 1971:

State of New York  
County of Albany

John Huhn, 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 15th day of September, 1977, ~~he~~ served the within  
Notice of Decision by (certified) mail upon Samuel E. Kezsbom

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Samuel E. Kezsbom, Esq.  
930 Ditmas Avenue  
Brooklyn, New York 11218

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

15th day of September, 1977.

John Huhn

Janet M. [Signature]



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

**September 15, 1977**

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

**Mr. Murray Goldstein**  
**4740 Bedford Avenue**  
**Brooklyn, New York 11235**

**Dear Mr. Goldstein:**

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 **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: 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 :  
MURRAY GOLDSTEIN :  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for the :  
Year 1971. :  
:

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DECISION

Petitioner, Murray Goldstein, residing at 4740 Bedford Avenue, Brooklyn, New York 11235, 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 year 1971 (File No. 12629).

A small claims hearing was scheduled before Joseph A. Milack, Small Claims Hearing Officer, on September 20, 1976 at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. Prior to the small claims hearing, petitioner advised the State Tax Commission, in writing, that he waived a small claims 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.

ISSUE

Whether petitioner, Murray Goldstein, is liable for the penalty imposed against him under section 685(g) of the Tax Law with respect to unpaid New York State withholding taxes due from Queen Coat Co., Inc. for the year 1971.

FINDINGS OF FACT

1. Queen Coat Co., Inc. failed to pay over to the Income Tax Bureau New York State personal income taxes withheld from its employees during the year 1971 in the sum of \$449.30. The corporation is presently defunct.

2. On January 27, 1975, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Murray Goldstein, imposing a penalty equal to the amount of New York State withholding taxes due from Queen Coat Co., Inc. for the year 1971, 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 in the sum of \$449.30.

3. Petitioner, Murray Goldstein, was secretary of Queen Coat Co., Inc. on a nominal basis and held said position so that he would be available when the active officer, Robert Rosen, was away from the business. Petitioner did not fire nor hire employees and did not maintain any of the books and records of the corporation. Petitioner never signed any of the tax returns of the corporation.

4. Petitioner, Murray Goldstein, resigned as corporate officer upon discovering the nature of his position.

5. The Federal Internal Revenue Service asserted its claims for unpaid withholding taxes due against Robert Rosen, and not against petitioner, Murray Goldstein.

CONCLUSIONS OF LAW

A. That, petitioner, Murray Goldstein, although an officer of Queen Coat Co., Inc., was not a person under a duty to perform the tasks of collecting, accounting for and paying over the withholding taxes. The petitioner did not willfully attempt to evade or defeat the tax or payment thereof.

B. That a penalty equal to the total amount of the unpaid withholding taxes was improperly asserted against petitioner, Murray Goldstein, in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That, the petition of Murray Goldstein is sustained and the Notice of Deficiency issued against him on January 27, 1975 is cancelled.

DATED: Albany, New York  
September 1, 1977

STATE TAX COMMISSION



RESIDENT



COMMISSIONER



COMMISSIONER