

In the Matter of the Petition

of  
ARCHIBALD GURLIDES

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) ~~or Period(s)~~ :  
1971

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 27th day of July, 1977, she served the within Notice of Decision by (certified) mail upon Archibald Gurlides

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

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

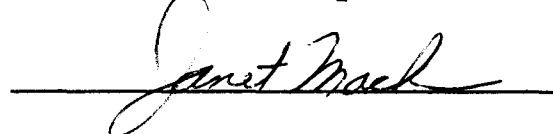
as follows: Mr. Archibald Gurlides  
606 Larkfield Road  
East Northport, NY 11731

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  
27th day of July, 1977.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ARCHIBALD GURLIDES

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 (x) ~~or Period(s)~~ :  
1971

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 27th day of July, 1977, she served the within Notice of Decision by (certified) mail upon Michael P. Gurlides

(representative of) the petitioner in the within proceeding,

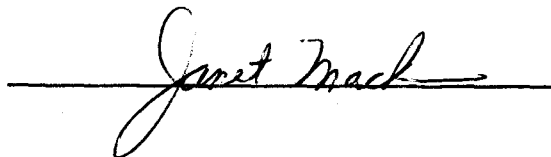
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Michael P. Gurlides, Esq.  
120 Mineola Boulevard  
Mineola, NY 11501

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  
27th day of July, 1977.

  
Marsina Donnini

  
Janet Mack



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

**July 27, 1977**

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

**Mr. Archibald Gurlides**  
**606 Larkfield Road**  
**East Northport, NY 11731**

**Dear Mr. Gurlides:**

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 **(a) 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 Chyrywat/meg*

**Joseph Chyrywat**  
**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 :  
ARCHIBALD GURLIDES : DECISION  
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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Petitioner, Archibald Gurlides, residing at 606 Larkfield Road, East Northport, New York 11731, 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. 12822).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on October 19, 1976 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Michael P. Gurlides, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq. of counsel).

ISSUE

Whether the petitioner, Archibald Gurlides, is subject to a penalty under section 685(g) of the Tax Law as a person who failed to collect, truthfully account for, and pay over withholding taxes due by Executive Diner Ltd. for the taxable year 1971.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Income Tax Bureau issued a Notice of Deficiency on June 30, 1975 against petitioner, Archibald Gurlides, upon the grounds that he was a responsible person who failed to collect, account for and pay over withholding taxes due for the year 1971 by Executive Diner Ltd.

2. Petitioner, Archibald Gurlides, was a stockholder and officer of Executive Diner Ltd., along with two other individuals. All three stockholders were corporate officers and each owned one-third of the total corporate stock.

3. All three individuals shared equally the managerial, financial, and operational functions of the corporation.

4. Corporate checks required the signature of any two of the three officers. However, the petitioner, as a treasurer of Executive Diner Ltd., usually made all corporate bank deposits.

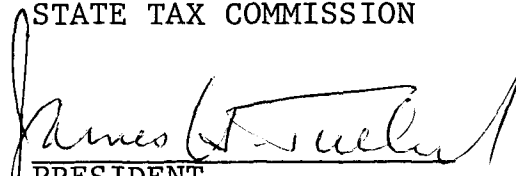
5. The financial difficulties of the corporation, as well as its financial obligations were known by the petitioner and his co-shareholders.

6. That the petitioner, Archibald Gurlides, is an individual who willfully failed to collect, account for, and pay over income taxes required to have been withheld during 1971 and as such, is subject to a penalty in accordance with the meaning and intent of section 685(g) of the Tax Law.

7. That the petition of Archibald Gurlides is denied and the Notice of Deficiency issued June 30, 1975 is sustained.

DATED: ALBANY, NEW YORK  
July 27, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER