

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALBERT T. HAYDUK, SR.

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) ~~xxx Period(s)~~  
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 24th day of August, 1977, she served the within  
Notice of Decision by (certified) mail upon Albert T. Hayduk, Sr.

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Albert T. Hayduk, Sr.  
377 North Broadway  
Yonkers, 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

24th 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 24, 1977

Mr. Albert T. Hayduk, Sr.  
377 North Broadway  
Yonkers, New York

Dear Mr. Hayduk:

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 ~~(8)~~ **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: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative

## STATE TAX COMMISSION

## DECISION

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on February 23, 1977 at 9:15 A.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., (Andrew Haber, Esq. of counsel).

I. Whether the petitioner, Albert T. Hayduk, Sr., is subject to a penalty for willful failure to collect and pay over withholding taxes, pursuant to section 685(g) of the Tax Law.

II. Whether the withholding taxes due from Techno Dry Cleaners, Incorporated and Techno Processing Industry, Incorporated for the years 1972 and 1973 have been paid.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Albert T. Hayduk, Sr., was the president of the above said firms.

2. The petitioner, Albert T. Hayduk, Sr., as an officer of the firms signed the corporate returns and was authorized to sign checks. He also had a one-third stock ownership in said firms.

3. The petitioner, Albert T. Hayduk, Sr., contends that he was not involved in the administration and operation of said firms. He further maintained that because he was the financial backer, he was given the title of president of these firms.

4. Petitioner further stated that the withholding taxes due from said firms were paid, but due to a burglary the firms' records were not available and he could not submit the cancelled checks or receipts.

5. Petitioner has not sustained the burden of proof necessary to substantiate that he was not a person required to collect, truthfully account for and pay over New York State

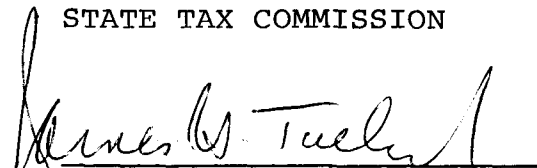
withholding taxes due from said firms for the years 1972 and 1973 in accordance with the meaning and intent of sections 685(g) and 685(n) of the Tax Law.

6. The petitioner, Albert T. Hayduk, Sr., has not sustained the burden of proof necessary to substantiate that the New York State withholding taxes due from said firms had been paid.

7. The petition of Albert T. Hayduk, Sr. is denied and the notices of deficiency in the sums of \$2,140.34 and \$430.60, respectively, issued on October 27, 1975 are sustained.

DATED: Albany, New York  
August 24, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER