

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALBERT HAYDUK, JR.

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) ~~xxxPeriod(x)~~
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 Hayduk, Jr.

(~~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 Hayduk, Jr.
36 Birch Brook Road
Bronxville, 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~~
~~xxxx~~) 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 Hayduk, Jr.
36 Birch Brook Road
Bronxville, 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 ~~(b)~~ **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
Joseph Chyrywat
Hearing Examiner

cc: ~~XXXXXXXXXXXXXXXXXXXX~~
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ALBERT HAYDUK, JR.	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Years 1972 and 1973.	:	

Petitioner, Albert Hayduk, Jr., residing at 36 Birch Brook Road, Bronxville, New York, 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 years 1972 and 1973. (File No. 10778).

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 by Albert Hayduk, Sr. The Income Tax Bureau appeared by Peter Crotty, Esq., (Andrew Haber, Esq. of counsel).

ISSUES

I. Whether the petitioner, Albert Hayduk, Jr., 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 Hayduk, Jr., was the vice-president of the above said firms.

2. The petitioner, Albert Hayduk, Jr., was an administrative officer of both Techno Dry Cleaners, Inc. and Techno Processing Industry, Inc. He had a one-third stock ownership in said firms and had authority to sign checks.

3. Techno Dry Cleaners, Incorporated and Techno Processing Industry, Incorporated both filed bankruptcy during the year 1973.

4. The petitioner, Albert Hayduk, Jr., contends 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.

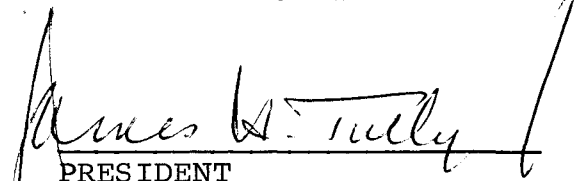
5. The petitioner, Albert Hayduk, Jr., was a responsible person required to collect, truthfully account for and pay over New York State withholding taxes due from said firms for the years 1972 and 1973 in accordance with the meaning and intent of sections 685(g) and 685(n) of the Tax Law.

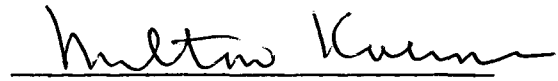
6. The petitioner, Albert Hayduk, Jr., has not sustained the burden of proof necessary to substantiate that the New York State withholding taxes due from said firms had been paid.

7. The petition of Albert Hayduk, Jr., 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