

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

THOMAS MASCIALE

AFFIDAVIT OF MAILING

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

State of New York  
County of Albany

Marsina Domini, 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 30th day of June, 1977, she served the within Notice of Decision by (certified) mail upon Thomas Masciale ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Thomas Masciale  
68 Skyline Drive  
Coral, 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

30th day of June, 1977.

Marsina Domini

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
THOMAS MASCIALE

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)~~ 22 of the :  
Tax Law for the Year(s) ~~1970, 1972, and 1973~~ :  
1970, 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 30th day of June, 1977, she served the within Notice of Decision by (certified) mail upon John R. Serpico (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: John R. Serpico  
186 Joralemon Street  
Brooklyn, New York 11201  
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  
30th day of June, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 30, 1977

TELEPHONE: (518) 457-1723

Mr. Thomas Masciale  
68 Skyline Drive  
Coral, New York

Dear Mr. Masciale:

Please take notice of the **Decision**  
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to  
Section(§) **690** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 Months**  
from the date of this notice.

Inquiries concerning the computation of tax  
due or refund allowed in accordance with this  
decision or concerning any other matter relative  
hereto may be addressed to the undersigned. They  
will be referred to the proper party for reply.

Very truly yours,  
*Frank J. Puccia*

FRANK J. PUCCIA  
Supervisor of  
Small Claims Hearings

Enc.

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 :  
THOMAS MASCIALE : DECISION  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for :  
the Years 1970, 1972 and 1973. :  
:

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Petitioner, Thomas Masciale, residing at 68 Skyline Drive, Coral, 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 1970, 1972 and 1973 (File No. 12238).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on October 25, 1976 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 John R. Serpico, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (P. Rosenkrantz, Esq. of counsel).

ISSUE

Whether petitioner, Thomas Masciale, is liable for a penalty in accordance with section 685(g) of the Tax Law as a person who failed to collect, truthfully account for, and pay over taxes imposed by Article 22 of the Tax Law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner was a corporate officer, and majority shareholder, of Jericho Industries, Inc. Due to financial difficulties experienced by the corporation early during the year 1970, Jericho Industries, Inc., became a subsidiary of Electronic Educational Systems, Inc. As a result, the petitioner received a minority share amounting to 13,333 shares of Electronic Educational Systems, Inc.

2. Petitioner retained his position as president of Jericho Industries, Inc. and was made responsible for the manufacturing and production operations of the corporation.

3. Petitioner had the right to sign corporate checks and to sign corporate tax returns, as a corporate officer. During 1970, and 1972, the petitioner signed withholding tax returns, which indicated that income taxes were withheld, due, and not paid.

4. On August 20, 1973, petitioner resigned as a corporate officer, and terminated his authorization to sign corporate checks. However, he continued his employment with Jericho Industries, Inc. as their production manager.

5. That petitioner, Thomas Masciale, was a person required to collect, truthfully account for and pay over New York State withholding taxes due from Jericho Industries, Inc. for the years 1970 and 1972 and for the period January 1, 1973 to August 20, 1973 in accordance with the meaning and intent of section 685(n)

of the Tax Law; and that since petitioner willfully failed or caused Jericho Industries, Inc. to willfully fail to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the years 1970 and 1972 and the period January 1, 1973 to August 20, 1973, a penalty equal to the amount of unpaid withholding taxes was properly asserted against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

6. That the petition of Thomas Masciale is granted to the extent that the penalty imposed in accordance with section 685(g) of the Tax Law for the year 1973 is reduced from \$2,273.30 to \$1,442.19.

7. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued July 28, 1975 for the year 1973; that the Notice of Deficiency issued June 30, 1975 for the years 1970 and 1972 is sustained; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York  
June 30, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

THOMAS MASCIALE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article(s) 22 of the  
Tax Law for the Year(s) ~~or Period(s)~~  
1970, 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 15 day of July, 1977, she served the within Notice of Decision by (certified) mail upon Thomas Masciale

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

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Thomas Masciale  
68 Skyline Drive  
Coram, New York 11727

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  
15 day of July, 1977.

Marsina Donnini

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**SMALL CLAIMS**

TA-26 (4-76) 25M

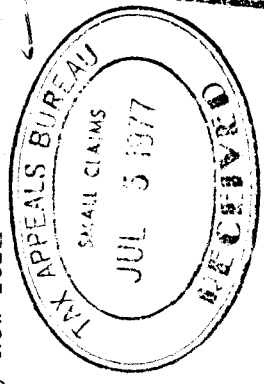
**STATE OF NEW YORK**  
Department of Taxation and Finance  
**TAX APPEALS BUREAU**

STATE CAMPUS  
ALBANY, N. Y. 12227

Mr. Thomas Masciale  
68 Skyline Drive  
Coral, New York

*T.A.B.*

No state named



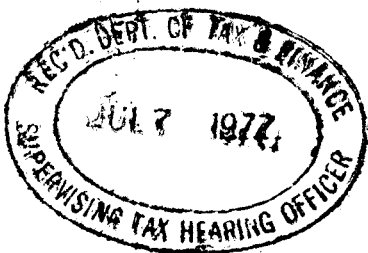


STATE OF NEW YORK  
Department of Taxation and Finance  
TAX APPEALS BUREAU

STATE CAMPUS  
ALBANY, N. Y. 12227



Eli (deceased) and Sophie Haddad  
Sam E. Haddad, Hiram Haddad and  
Moyshe Haddad, as Co-executors  
476 Avenue "T"  
Brooklyn, New York 11223



STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ELI HADDAD (Deceased) and SOPHIE C. HADDAD, SAM E. HADDAD, HIRAM HADDAD and MOYSH HADDAD, Co-Executors  
AFFIDAVIT OF MAILING  
For a Redetermination of a Deficiency or a Revision of a Determination or a Refund of Personal Income Taxes under Article(s) 22 of the Tax Law for the Year(s) ~~or periods~~ 1966

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 15 day of July, 1977, she served the within

Notice of Decision by ~~(certified)~~ mail upon Eli Haddad (Deceased) and Sophie C. Haddad, Sam E. Haddad, Hiram Haddad and Moysh Haddad, Co-Executors ~~(representative of the)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Eli (deceased) and Sophie Haddad Sam E. Haddad, Hiram Haddad and Moysh Haddad, as Co-Executors 476 Avenue "T" Brooklyn, New York 11223 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)~~ ~~(representative of the)~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~(representative of the)~~ ~~(representative of the)~~ petitioner.

Sworn to before me this  
15 day of July, 1977

Marsina Donnini

Janet Mack