

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
LOUIS STORCH

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article ~~13~~ 22 of the  
Tax Law for the Year(s) ~~or Period(s)~~  
1970 and 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 24 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Louis Storch ~~representative of~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Louis Storch, 149 76th Weller Lane, Rosedale, New York 11422 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 Buck



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. Louis Storch  
149 76th Weller Lane  
Rosedale, New York 11422

Dear Mr. Storch:

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(s) **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~~  
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  
LOUIS STORCH  
for Redetermination of a Deficiency  
or for Refund of Personal Income  
Taxes under Article 22 of the Tax  
Law for the Years 1970 and 1971.

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DECISION

Petitioner, Louis Storch, residing at 149 76th Weller Lane, Rosedale, New York 11422, 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 and 1971 (File No. 13427).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on January 25, 1977 at 10:45 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., (Frank Levitt, Esq. of counsel).

ISSUE

Whether petitioner, Louis Storch, is liable for unpaid New York State withholding taxes due from Rosedale Furs, Inc. for the years 1970 and 1971.

FINDINGS OF FACT

1. Rosedale Furs, Inc. failed to pay over to the Income Tax Bureau New York State personal income taxes withheld from its employees during the years 1970 and 1971. The corporation is now defunct.

2. On August 27, 1973, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Louis Storch, imposing a penalty equal to the amount of New York State withholding taxes due from Rosedale Furs, Inc. for the years 1970 and 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 amount of \$1,553.80.

3. On December 28, 1973, the Income Tax Bureau issued an additional Statement of Deficiency against petitioner for the year 1971 upon the same grounds that it issued the Statement of Deficiency on August 27, 1973. Said Statement of Deficiency was issued upon discovery by the Income Tax Bureau of withholding taxes due from Rosedale Furs, Inc. for the year 1971 in excess of amounts previously assessed on August 27, 1973. In accordance with the Statement of Deficiency issued on December 28, 1973, the Income Tax Bureau issued a Notice of Deficiency in the amount of \$274.70.

4. Petitioner, Louis Storch, was secretary of Rosedale Furs, Inc. during the years 1970 and 1971. In his capacity as secretary he signed checks, prepared the payroll and signed tax returns.

5. Petitioner, Louis Storch, was aware of the withholding tax liability of Rosedale Furs, Inc. and with the exception of the latter part of 1971 paid other creditors after the withholding taxes became due.

CONCLUSIONS OF LAW

A. That, petitioner, Louis Storch, as secretary of Rosedale Furs, Inc. was a person required to collect, truthfully account for and pay over New York State withholding taxes due from said corporation during the years 1970 and 1971.

B. That, petitioner, Louis Storch, willfully failed or caused Rosedale Furs, 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 1971; therefore, the penalty equal to the total amount of the unpaid withholding taxes was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That, the petition of Louis Storch is denied and the notices of deficiency issued on August 23, 1973 and December 28, 1973 are sustained.

DATED: Albany, New York

August 24, 1977

STATE TAX COMMISSION

*James A. Sullivan*  
\_\_\_\_\_  
PRESIDENT

*Milton Kremer*  
\_\_\_\_\_  
COMMISSIONER

*Thomas H. Gil*  
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COMMISSIONER