

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

DONALD M. WASSERMAN

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) or Period (s)~~ :  
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 22nd day of July, 1977, she served the within  
Notice of Decision by (certified) mail upon Donald M. Wasserman

~~representative of~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Donald Wasserman  
873 Teaneck Road  
Teaneck, New Jersey 07666


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.

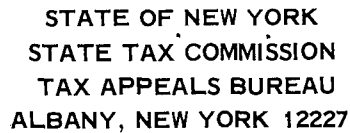
That deponent further says that the said addressee is the ~~representative~~  
~~XXXXXX~~ petitioner herein and that the address set forth on said wrapper is the  
last known address of the ~~representative of the~~ petitioner.

Sworn to before me this

22nd day of July, 1977.







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

TA-1.12 (6/77)

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :

of :

DONALD M. WASSERMAN :

DECISION

for Redetermination of Deficiency or for :  
Refund of Personal Income Taxes under :  
Article 22 of the Tax Law for the Year :  
1973. :

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Petitioner, Donald Wasserman, residing at 873 Teaneck Road, Teaneck, New Jersey 07666, 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 1973. (File No. 12810).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on November 19, 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 pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (William Fox, Esq. of counsel).

#### ISSUE

Whether the petitioner, Donald M. Wasserman, was a responsible person required to collect, truthfully account for, and pay over New York State withholding taxes to Theatre-Go-Round Ltd. for the year 1973.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Donald M. Wasserman, was secretary of Theatre - Go - Round Ltd. during the year 1973. In his capacity as secretary he signed checks, and prepared and signed tax returns.

2. The petitioner stated that on or about January 20, 1975, when he left his position with the firm, there were enough assets to pay the New York State withholding taxes due. He also maintained that if the remaining corporate officers had disposed of the assets in a proper and legal manner, sufficient funds would have been available to satisfy this deficiency.

3. That, petitioner, Donald M. Wasserman, was a responsible person required to collect, truthfully account for and pay over New York State withholding taxes due from Theatre - Go - Round during the year 1973 in accordance with the meaning and intent of section 685(n) of the Tax Law.


4. That petitioner, Donald M. Wasserman, willfully failed or caused Theatre - Go - Round to willfully fail to collect, truthfully account for and pay over to New York State withholding taxes due from said corporation for the year 1973, and, therefore, a penalty equal to the total amount of the unpaid withholding taxes was properly asserted against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

5. That the petition of Donald M. Wasserman is denied and the Notice of Deficiency in the sum of \$1,740.20 issued on August 25, 1975 is sustained.

DATED: Albany, New York  
July 22, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSICNER

  
COMMISSIONER