

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
DAVID M. FRIED

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) or~~ Period ~~(s)~~ :
January 1, 1970

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that

~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 14th day of February , 1978, ~~he~~ served the within

Notice of Decision by (certified) mail upon David M. Fried

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

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

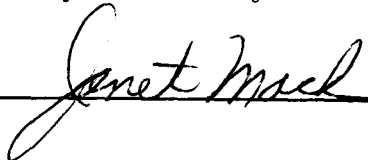
as follows: David M. Fried
1488 Pine Park Avenue
Lakewood, New Jersey 08701

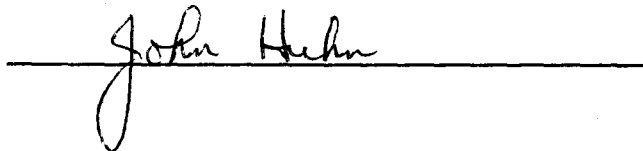
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

Sworn to before me this

14th day of February , 19 78







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227
February 14, 1978

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

David M. Fried
1488 Pine Park Avenue
Lakewood, New Jersey 08701

Dear Mr. Fried:

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 (x) **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 CHIRIYATI
HEARING EXAMINER

~~XX~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
DAVID M. FRIED : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Period :
January 1, 1970 to June 11, 1970. :
:

Petitioner, David M. Fried, 1488 Pine Park Avenue, Lakewood, New Jersey 08701, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the period January 1, 1970 to June 11, 1970 (File No. 12610).

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 22, 1977 at 1:15 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Francis Cosgrove, Esq., of counsel).

ISSUE

Whether petitioner, David M. Fried, was liable under section 685(g) of the Tax Law for a penalty equal to the amount of unpaid New York State withholding tax due from Jet Star Juniors, Inc. for the period January 1, 1970 to June 11, 1970.

FINDINGS OF FACT

1. On December 23, 1974, the Income Tax Bureau issued a Notice of Deficiency against petitioner, David M. Fried, in the amount of \$335.70 for the year 1970, upon the grounds that he failed to collect, truthfully account for and pay over withholding taxes due from Jet Star Juniors, Inc. for the period January 1, 1970 to June 11, 1970.

2. During the period in issue, the petitioner was an officer of Jet Star Juniors, Inc. and owned fifty percent of the capital stock in said corporation.

3. As an officer of Jet Star Juniors, Inc., petitioner had the authority to sign checks, legal documents and tax returns for the corporation.

4. During June of 1970, Jet Star Juniors, Inc. was assigned to the New York Creditman's Bureau as assignee. Immediately prior to this assignment, petitioner was responsible for determining which creditors were to be paid.

CONCLUSIONS OF LAW

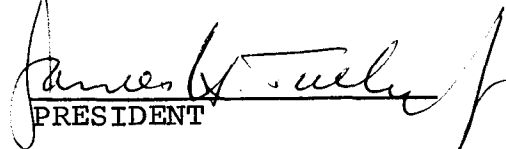
A. That the petitioner was a person required to collect, truthfully account for and pay over New York State withholding tax due from Jet Star Juniors, Inc. for the period January 1, 1970 to June 1, 1970, and that he willfully failed to do so in accordance with the meaning and intent of sections 685(g) and 685(n) of the Tax Law.

B. That the petition of David M. Fried is denied and the Notice of Deficiency issued on December 23, 1974 is sustained.

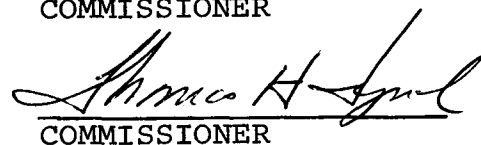
DATED: Albany, New York

February 14, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER