

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

PETER MELTZER

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)~~  
1973 and 1974.

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 24th day of April, 1978, ~~he~~ served the within  
Notice of Decision by (certified) mail upon Peter Meltzer

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Peter Meltzer  
51 East 82nd Street  
New York, New York 10028

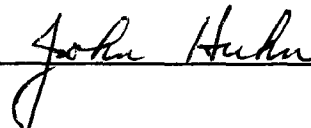
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~  
~~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 April, 1978





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

PETER MELTZER

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) ~~xxxxxx~~ :  
1973 and 1974.

State of New York  
County of Albany


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~~x~~he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 24th day of April , 1978, ~~x~~he served the within  
Notice of Decision by (certified) mail upon Mark A. Brandoff

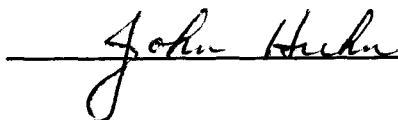
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mark A. Brandoff, Esq.  
Ballou, Stoll & Itzler  
1180 Avenue of the Americas  
New York, New York 10036  
and by depositing same enclosed in a 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 April , 1978.







STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

**April 24, 1978**

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

**Mr. Peter Meltzer  
51 East 82nd Street  
New York, New York 10028**

**Dear Mr. Meltzer:**

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 Chyrywat  
Hearing Examiner**

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 :  
PETER MELTZER : DECISION  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Tax under :  
Article 22 of the Tax Law for the Years :  
1973 and 1974. :  
:

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Petitioner, Peter Meltzer, 51 East 82nd Street, New York, New York 10028, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1973 and 1974 (File No. 12722).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 19, 1976 at 2:45 P.M. Petitioner appeared by Mark A. Brandoff. The Income Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUE

Whether petitioner was a person required to collect, truthfully account for and pay over New York State withholding taxes due from Millridge Fabrics Corporation for the years 1973 and 1974.

FINDINGS OF FACT

1. Millridge Fabrics Corporation (hereinafter "Millridge") failed to pay over New York State withholding taxes due from its employees for the years 1973 and 1974.

2. On June 30, 1975, the Income Tax Bureau issued a Notice of Deficiency against petitioner, Peter Meltzer, in the sum of \$3,290.76. This constituted a penalty equal to the amount of New York State withholding taxes due from Millridge for the years 1973 and 1974, on 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.

3. Petitioner was president and fifty-percent shareholder of Millridge. His wife was secretary-treasurer of Millridge, but held no stock in said firm.

4. Petitioner contended that he was named president of Millridge in order to enhance the credit opportunities of said corporation, since the active members of the corporation could not obtain credit.

5. Petitioner was authorized to sign corporate checks but contended that he took neither an active role in the management of Millridge, nor did he prepare, sign or file corporate tax returns.

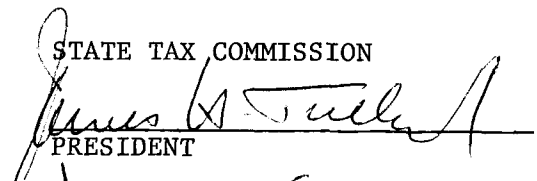

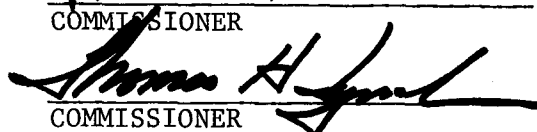
CONCLUSIONS OF LAW

A. That petitioner, Peter Meltzer, has not sustained the burden of proof required to show that he was not a person required to collect, truthfully account for, and pay over withholding taxes due from Millridge Fabrics Corporation for the years 1973 and 1974. Therefore, he is subject to a penalty equal to the total amount of tax not paid over to New York State within the meaning and intent of section 685(g) of the Tax Law.

B. That the petition of Peter Meltzer is denied and the Notice of Deficiency issued on June 30, 1975 is sustained.

DATED: Albany, New York

April 24, 1978

STATE TAX COMMISSION  
  
PRESIDENT  
  
COMMISSIONER  
  
COMMISSIONER