

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MORRIS SCHLITTEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of ~~Personal Income and~~ :  
~~Unincorporated Business~~ :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the ~~Year(s)~~ Period(x) :  
January 1 through June 30, 1965.

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 3rd day of May, 1978, he served the within  
Notice of Decision by (certified) mail upon Morris Schlitten


(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Morris Schlitten  
305 East 86th Street  
New York, New York

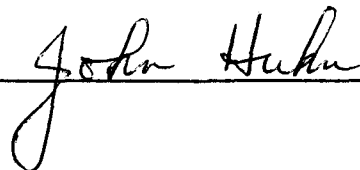
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

3rd day of May, 1978





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MORRIS SCHLITTEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of ~~Personal Income and~~ :  
~~Unincorporated Business~~ :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the ~~Year(s)~~ Period(x) :  
January 1 through June 30, 1965.

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 3rd day of May, 1978, he served the within  
Notice of Decision by (certified) mail upon Max Fruchtman, Esq.

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Max Fruchtman, Esq.  
1776 Broadway  
New York, New York 10019

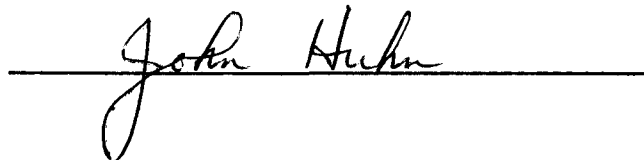
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

3rd day of May, 1978







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

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

**May 3, 1978**

**Mr. Morris Schlitten  
305 East 86th Street  
New York, New York**

**Dear Mr. Schlitten:**

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 & 722** 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,

**Aloysius J. Mendza  
Assistant Director**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
of	:	
MORRIS SCHLITTEN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
and Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law for the	:	
Period January 1 through June 30, 1965.	:	

---

Petitioner, Morris Schlitten, 305 East 86th Street, New York, New York, filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the period January 1 through June 30, 1965. (File No. 01918).

A formal hearing was held before Lawrence A. Newman, Hearing Officer, at the offices of the State Tax Commission in the City of New York on March 27, 1970. The petitioner appeared by Max Fruchtman, Esq. The Income Tax Bureau appeared by Edward H. Best, Esq. (Solomon Sies, Esq., of counsel).

ISSUE

Whether cash found in petitioner's apartment at the time of his arrest for gambling violations constituted unreported earnings of petitioner from an illegal lottery.

FINDINGS OF FACT

1. On July 29, 1965, the Income Tax Bureau issued a jeopardy assessment in the amount of \$78,860.00 against petitioner, Morris Schlitten, for the period January 1 through June 30, 1965, in accordance with the provisions of section 694(1) of the Tax Law.

2. In accordance with the aforesaid jeopardy assessment, a Notice of Deficiency was issued against petitioner on August 9, 1965.

3. On June 26, 1965, the petitioner and two other persons were arrested by the New York City Police in an apartment leased to petitioner at 305 East 86th Street, New York, New York. Petitioner was charged with violating sections 974, 974A and 975 of the Penal Law, which deal with the operation of an illegal numbers game. At the time of the arrest, the police seized \$22,835.00 in currency which was found in the apartment. In computing the jeopardy assessment, the seized currency was assumed to be the net proceeds from the operation of an illegal lottery for one week. This amount was multiplied by 25 weeks, equalling the sum of \$570,875.00 for the early-terminated tax year of January 1 through June 30, 1965. Personal income and unincorporated business taxes were computed on said amount and were assessed against each of the three individuals arrested in the apartment, including the petitioner, since the true

ownership of the funds could not be ascertained. The funds were seized and held by the New York City Police Property Clerk to await a claim of ownership.

4. The petitioner denied ownership of the money and did not file a claim for it.

5. On or before April 15, 1966, the petitioner filed a resident New York State income tax return for the calendar year 1965. The amount of \$20,000.00 was reported as his sole income from "other sources", and an income tax of \$935.00 was computed thereon. No remittance was made with the return.

#### CONCLUSIONS OF LAW

A. That there is insufficient evidence to support a finding that the cash found in an apartment leased by petitioner, or the amount projected by the Income Tax Bureau, constituted unreported illegal lottery earnings of the petitioner.

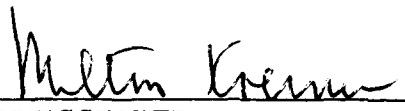
B. That the 1965 New York State income tax liability of petitioner is \$935.00, plus interest at the rate of 6 percent per annum from the due date for filing the 1965 return to the date of payment.

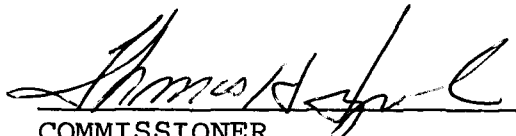
C. That the jeopardy assessment is abated and the petition of Morris Schlitten, except as otherwise provided in Conclusion of Law "B" hereof, is granted.

DATED: Albany, New York  
May 3, 1978

STATE TAX COMMISSION

\_\_\_\_\_  
PRESIDENT

  
\_\_\_\_\_  
COMMISSIONER

  
\_\_\_\_\_  
COMMISSIONER



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

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

May 3, 1978

Mr. Morris Schlitten  
305 East 86th Street  
New York, New York

Dear Mr. Schlitten:

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 & 722 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,

Aloysius J. Nendza  
Assistant Director

cc: Petitioner's Representative

Taxing Bureau's Representative



STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
of	:	
MORRIS SCHLITTEN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
and Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law for the	:	
Period January 1 through June 30, 1965.	:	

---

Petitioner, Morris Schlitten, 305 East 86th Street, New York, New York, filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the period January 1 through June 30, 1965. (File No. 01918).

A formal hearing was held before Lawrence A. Newman, Hearing Officer, at the offices of the State Tax Commission in the City of New York on March 27, 1970. The petitioner appeared by Max Fruchtman, Esq. The Income Tax Bureau appeared by Edward H. Best, Esq. (Solomon Sies, Esq., of counsel).

ISSUE

Whether cash found in petitioner's apartment at the time of his arrest for gambling violations constituted unreported earnings of petitioner from an illegal lottery.

FINDINGS OF FACT

1. On July 29, 1965, the Income Tax Bureau issued a jeopardy assessment in the amount of \$78,860.00 against petitioner, Morris Schlitten, for the period January 1 through June 30, 1965, in accordance with the provisions of section 694(1) of the Tax Law.

2. In accordance with the aforesaid jeopardy assessment, a Notice of Deficiency was issued against petitioner on August 9, 1965.

3. On June 26, 1965, the petitioner and two other persons were arrested by the New York City Police in an apartment leased to petitioner at 305 East 86th Street, New York, New York. Petitioner was charged with violating sections 974, 974A and 975 of the Penal Law, which deal with the operation of an illegal numbers game. At the time of the arrest, the police seized \$22,835.00 in currency which was found in the apartment. In computing the jeopardy assessment, the seized currency was assumed to be the net proceeds from the operation of an illegal lottery for one week. This amount was multiplied by 25 weeks, equalling the sum of \$570,875.00 for the early-terminated tax year of January 1 through June 30, 1965. Personal income and unincorporated business taxes were computed on said amount and were assessed against each of the three individuals arrested in the apartment, including the petitioner, since the true

ownership of the funds could not be ascertained. The funds were seized and held by the New York City Police Property Clerk to await a claim of ownership.

4. The petitioner denied ownership of the money and did not file a claim for it.

5. On or before April 15, 1966, the petitioner filed a resident New York State income tax return for the calendar year 1965. The amount of \$20,000.00 was reported as his sole income from "other sources", and an income tax of \$935.00 was computed thereon. No remittance was made with the return.

#### CONCLUSIONS OF LAW

A. That there is insufficient evidence to support a finding that the cash found in an apartment leased by petitioner, or the amount projected by the Income Tax Bureau, constituted unreported illegal lottery earnings of the petitioner.

B. That the 1965 New York State income tax liability of petitioner is \$935.00, plus interest at the rate of 6 percent per annum from the due date for filing the 1965 return to the date of payment.

C. That the jeopardy assessment is abated and the petition of Morris Schlitten, except as otherwise provided in Conclusion of Law "B" hereof, is granted.

DATED: Albany, New York  
May 3, 1978

STATE TAX COMMISSION

---

PRESIDENT

*Milton Kram*  
\_\_\_\_\_  
COMMISSIONER

*Thomas H. [unclear]*  
\_\_\_\_\_  
COMMISSIONER

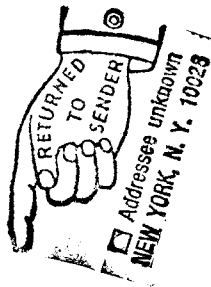
**FORMAL HEARING**  
STATE OF NEW YORK

Department of Taxation and Finance

**TAX APPEALS BUREAU**

STATE CAMPUS

ALBANY, N. Y. 12227



Mr. Morris Schlitten  
305 East 86th Street  
New York, New York

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MORRIS SCHLITTEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income & Unincorporated Business :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the ~~years 1965 & 1966~~ Period ~~(s)~~ :  
January 1 through June 30, 1965.

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 25th day of May, 1978, He served the within  
Notice of Decision by (certified) mail upon Max Fruchtman, Esq.

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Max Fruchtman, Esq.  
690 Fort Washington Avenue  
New York, 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

25th day of May, 1978.

JP Walker

John Huhn

# FORMAL HEARING

STATE OF NEW YORK

Department of Taxation and Finance  
TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

RETURNED TO WRITER

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

Max Fruchtman, Esq.

1776 Broadway

New York, New York 10019

IED

49

691 1st +

Washington Ave

b6b 5 and

521 BROADWAY  
NEW YORK, N.Y. 10017

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



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

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

**May 3, 1978**

REMAILED: May 25, 1978

**Mr. Morris Schlitten  
505 East 86th Street  
New York, New York**

**Dear Mr. Schlitten:**

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 & 722** 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,

**Aloysius J. Mendza  
Assistant Director**

cc: Petitioner's Representative

Taxing Bureau's Representative



STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
of	:	
MORRIS SCHLITTEN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
and Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law for the	:	
Period January 1 through June 30, 1965.	:	

---

Petitioner, Morris Schlitten, 305 East 86th Street, New York, New York, filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the period January 1 through June 30, 1965. (File No. 01918).

A formal hearing was held before Lawrence A. Newman, Hearing Officer, at the offices of the State Tax Commission in the City of New York on March 27, 1970. The petitioner appeared by Max Fruchtman, Esq. The Income Tax Bureau appeared by Edward H. Best, Esq. (Solomon Sies, Esq., of counsel).

#### ISSUE

Whether cash found in petitioner's apartment at the time of his arrest for gambling violations constituted unreported earnings of petitioner from an illegal lottery.

FINDINGS OF FACT

1. On July 29, 1965, the Income Tax Bureau issued a jeopardy assessment in the amount of \$78,860.00 against petitioner, Morris Schlitten, for the period January 1 through June 30, 1965, in accordance with the provisions of section 694(1) of the Tax Law.

2. In accordance with the aforesaid jeopardy assessment, a Notice of Deficiency was issued against petitioner on August 9, 1965.

3. On June 26, 1965, the petitioner and two other persons were arrested by the New York City Police in an apartment leased to petitioner at 305 East 86th Street, New York, New York. Petitioner was charged with violating sections 974, 974A and 975 of the Penal Law, which deal with the operation of an illegal numbers game. At the time of the arrest, the police seized \$22,835.00 in currency which was found in the apartment. In computing the jeopardy assessment, the seized currency was assumed to be the net proceeds from the operation of an illegal lottery for one week. This amount was multiplied by 25 weeks, equalling the sum of \$570,875.00 for the early-terminated tax year of January 1 through June 30, 1965. Personal income and unincorporated business taxes were computed on said amount and were assessed against each of the three individuals arrested in the apartment, including the petitioner, since the true

ownership of the funds could not be ascertained. The funds were seized and held by the New York City Police Property Clerk to await a claim of ownership.

4. The petitioner denied ownership of the money and did not file a claim for it.

5. On or before April 15, 1966, the petitioner filed a resident New York State income tax return for the calendar year 1965. The amount of \$20,000.00 was reported as his sole income from "other sources", and an income tax of \$935.00 was computed thereon. No remittance was made with the return.

CONCLUSIONS OF LAW

A. That there is insufficient evidence to support a finding that the cash found in an apartment leased by petitioner, or the amount projected by the Income Tax Bureau, constituted unreported illegal lottery earnings of the petitioner.

B. That the 1965 New York State income tax liability of petitioner is \$935.00, plus interest at the rate of 6 percent per annum from the due date for filing the 1965 return to the date of payment.

C. That the jeopardy assessment is abated and the petition of Morris Schlitten, except as otherwise provided in Conclusion of Law "B" hereof, is granted.

DATED: Albany, New York  
May 3, 1978

STATE TAX COMMISSION

---

PRESIDENT

  
\_\_\_\_\_  
COMMISSIONER

  
\_\_\_\_\_  
COMMISSIONER

STATE OF NEW YORK  
Department of Taxation and Finance  
TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N. Y. 12227

86-7-17-30-78

~~Max Fruchtmann, Esq.  
690 Fort Washington Avenue  
New York, New York~~

Max Fruchtman, Esq.  
690 Fort Washington Avenue  
New York, New York

THIS LETTER START TO M.F. W. ROAD  
MAY FRUCHTMAN 1967 (see log) (see log)  
DECLASSIFIED BY 60321 J. J. [unclear] 10533

LEE FRUCHTMAN

590 ~~LAWRENCE RUBIN D.B.S.~~  
~~51 WEST 40th STREET~~ Ave

NY

NEW YORK 10014

10033



Formal Hearing

Dept of Taxes & Finance  
Tax Appeals Bureau  
State Campus  
Albany, NY 12217