

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Alice Price Garfield :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of the Tax Law

for the Years 1966 & 1967. :

State of New York

County of Albany

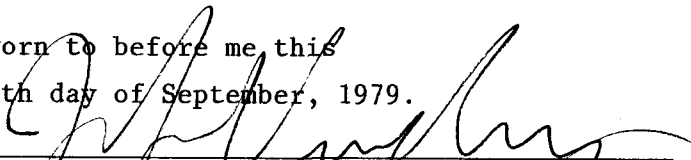
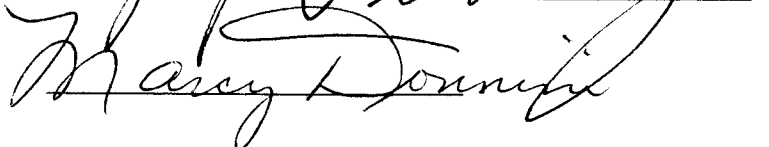
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1979, he served the within notice of Decision by certified mail upon Alice Price Garfield, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Alice Price Garfield  
710 N. Ocean Blvd  
Pompano Beach, FL 33062

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this  
28th day of September, 1979.

STATE OF NEW YORK  
STATE TAX COMMISSION

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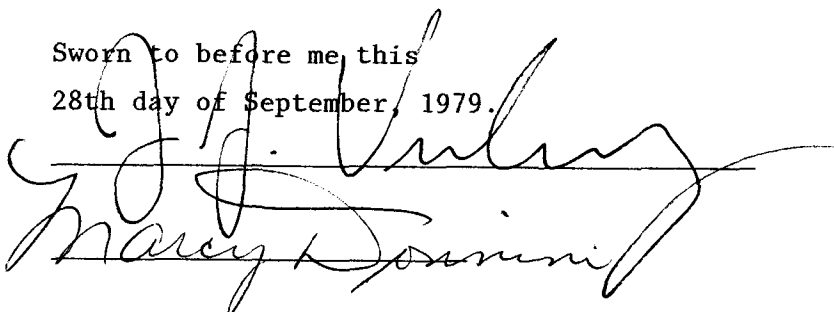
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1979, he served the within notice of Decision by certified mail upon Robert Pape the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Robert Pape  
Bennett, Kaye & Scholly  
P.O. Box 138, 255 Merrick Rd.  
Rockville Center, NY 11570

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  
28th day of September, 1979.



The block contains two handwritten signatures. The first signature is in cursive and appears to read 'Jay Vredenburg'. The second signature is also in cursive and appears to read 'Nancy Dominici'. Both signatures are written over a horizontal line.

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

JOHN J. SOLLECITO  
DIRECTOR

Telephone: (518) 457-1723

September 28, 1979

Alice Price Garfield  
710 N. Ocean Blvd  
Pompano Beach, FL 33062

Dear Ms. Garfield:

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,



cc: Petitioner's Representative  
Robert Pape  
Bennett, Kaye & Scholly  
P.O. Box 138, 255 Merrick Rd.  
Rockville Center, NY 11570  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
ALICE PRICE GARFIELD	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1966 and 1967.	:	

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Petitioner, Alice Price Garfield, 710 North Ocean Boulevard, Pompano Beach, Florida 33062, 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 1966 and 1967 (File No. 13955).

On September 12, 1978, petitioner informed the State Tax Commission, in writing, that she desired to waive a small claims hearing and to submit the case to the State Tax Commission, based on the entire record contained in the file. After due consideration of said record, the Commission renders the following decision.

ISSUE

Whether petitioner was a person required to collect, truthfully account for and pay over New York State income taxes withheld from salaries paid to employees of Walter's Town & Country, Inc. for 1966 and 1967.

FINDINGS OF FACT

1. Walter's Town & Country, Inc. failed to pay over to the Income Tax Bureau, New York State personal income taxes withheld from its employees during 1966 and 1967.

2. On April 10, 1972, the Income Tax Bureau issued a Notice of Deficiency against petitioner, Alice Price Garfield, for a penalty equal to the amount of New York State withholding tax due from Walter's Town & Country, Inc. for 1966 and 1967. This was done on the grounds that she was a person required to collect, truthfully account for and pay over said tax, and that she willfully failed to do so.

3. Petitioner contended that Walter's Town & Country, Inc., a restaurant, was formed by her son, John David Walter, and that she did not receive any income from said business, nor did she have anything to do with running the business other than to apply for a liquor license. She further alleged that the restaurant was a losing proposition and that after a few months, her son sold it to John A. Paul. Mr. Paul operated the business until he declared bankruptcy in 1967. Petitioner stated that she has been a resident of Florida since 1965.

4. During 1966 and 1967, petitioner was a shareholder and secretary of Walter's Town & Country, Inc. No evidence was submitted to show that said corporation either changed ownership or went out of existence.

CONCLUSIONS OF LAW

A. That petitioner, Alice Price Garfield, was a person required to collect, truthfully account for, and pay over New York State withholding taxes of \$1,270.77, withheld by Walter's Town & Country, Inc. for 1966 and 1967, and that she willfully failed to do so, within the meaning of subdivision (g) and (n) of section 685 of the Tax Law. Petitioner is subject to a penalty equal to said sum under

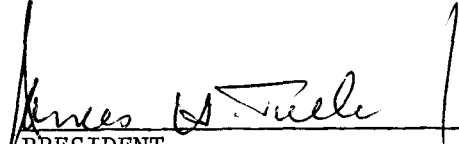
subsection (g) of section 685 of the Tax Law.

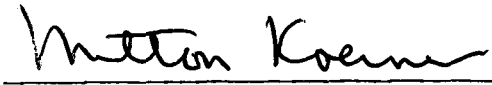
B. That the petition of Alice Price Garfield is denied and the Notice of Deficiency issued April 10, 1972 for \$1,270.77 is sustained.

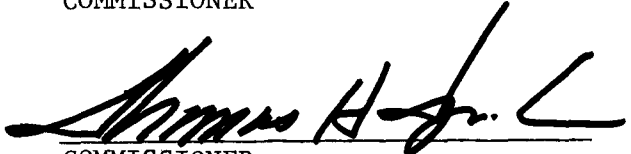
DATED: Albany, New York

SEP 28 1979

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER