

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FLOYD MARCH

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(21)~~ 22 of the :
Tax Law for the Year ~~(Sixty Period)~~ 1973. :

State of New York
County of Albany

John Huhn , 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 4th day of May , 19 79, She served the within
Notice of Decision by (certified) mail upon Floyd March

~~XXXXXXXXXXXX~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Floyd March
999 Northeast 167th St.
North Miami Beach, Florida 33162

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

Sworn to before me this

4th day of May , 19 79.

Marilyn J. Papineau

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FLOYD MARCH

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(a)~~ 22 of the :
Tax Law for the Year ~~(a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z)~~ 1973. :

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that
~~she~~ she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 4th day of May , 19 79 , ~~she~~ she served the within
Notice of Decision by (certified) mail upon Oscar Goldberg
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Oscar Goldberg
75 Maiden Lane
New York, NY 10038

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

4th day of May , 19 79

Marilyn J. Papineau

John Huhn



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 4, 1979

Floyd March
999 Northeast 167th St.
North Miami Beach, Florida 33162

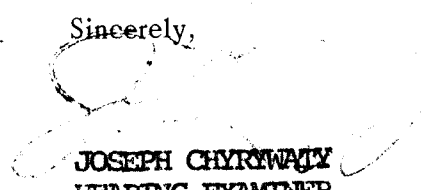
Dear Mr. March:

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 CHYROWAJTY
HEARING EXAMINER

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
FLOYD MARCH	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1973.	:	

Petitioner, Floyd March, 999 Northeast 167th Street, North Miami Beach, Florida 33162, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1973 (File No. 11625).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 6, 1978 at 10:45 A.M. Petitioner appeared by Oscar Goldberg, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether petitioner was a person required to collect, truthfully account for and pay over New York State withholding taxes of Lane Wines and Liquors, Inc. for the period April 1, 1973 through September 10, 1973.

FINDINGS OF FACT

1. On August 26, 1974, the Income Tax Bureau issued a Notice of Deficiency to petitioner, asserting penalty pursuant to section 685(g) of the Tax Law. Said Notice was issued against Floyd March as a person who willfully failed to collect and pay over personal income taxes withheld by Lane Wines and Liquors, Inc. of \$575.00.

2. Petitioner, Floyd March, was a corporate officer and minority stockholder of Lane Wines and Liquors, Inc. He contended that his sole function was to appear once a week to co-sign corporate checks.

3. Funds which were available during 1973 were used to pay liquor distributors, so that the corporation could continue in business. Corporate checks were signed by petitioner to pay liquor distributors and "day-to-day" expenses.

4. Petitioner was a full-time employee of another business in which he maintained an investment interest.

5. At a conference, it was determined that the actual amount due in withholding taxes from Lane Wines and Liquors, Inc. for the period April 1, 1973 through September 10, 1973 was \$563.00.

CONCLUSIONS OF LAW

A. That petitioner, Floyd March, was a person required to collect, truthfully account for and pay over New York State withholding taxes due from Lane Wines and Liquors, Inc. for the period

April 1, 1973 through September 10, 1973, within the meaning and intent of subsection (g) and (n) of section 685(n) of the Tax Law and that he willfully failed to do so. Accordingly, petitioner is subject to the penalty imposed by subsection (g) of section 685 of the Tax Law.

B. That the petition of Floyd March is granted to the extent that the penalty imposed against him be reduced from \$575.00 to \$563.00

C. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued August 26, 1974 and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

May 4, 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

to Ms. Davis.....

Please file.

5/21/79

Joseph Chyrywaty

M-75 (5/76)

ARTICLE NO.

493558

● **IMPORTANT:** Present this form to obtain your mail. ID required. Signature may be required.

You may call for your mail after _____ M. (Date) _____ or

MAIL
IS
AT

notify your carrier or Post Office for redelivery.

<input type="checkbox"/> REGISTERED	<input type="checkbox"/> NUMBERED INSURED	<input type="checkbox"/> CUSTOM (Omit Number)	<input checked="" type="checkbox"/> LETTER	<input type="checkbox"/> FLAT
<input checked="" type="checkbox"/> CERTIFIED	<input type="checkbox"/> COD	<input type="checkbox"/> EXPRESS MAIL	<input type="checkbox"/> POSTAGE DUE	<input type="checkbox"/> PARCEL
<input type="checkbox"/> SPECIAL DELIVERY	For special deliveries: Article	<input type="checkbox"/> PLACED UNDER YOUR DOOR.	<input type="checkbox"/> RESTRICTED DELIVERY	<input type="checkbox"/> HOLD
		<input type="checkbox"/> PLACED IN YOUR LETTER BOX	ZIP OF ORIGIN	
<input type="checkbox"/> If not called for at Post Office before carrier begins his next regular trip he will deliver it to you.		12227		

CLAIM CHECK NO.	2ND NOTICE (Date)	RETURN (Date)	AMOUNT DUE \$
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CUSTOMER (Please describe any visible damage)

ADDRESSEE NAME (Print)

FLOYD MARSH

ADDRESS

999 NE 167 ST

DELIVERED BY AND DATE

RECEIVED BY

LEFT WITH RESIDENTIAL UNIT MANAGER

NORTH MIAMI BEACH STATION

16400 DIXIE HIGHWAY

PHONE: 944-5339 or 947-0282

8:30 AM - 5 PM MON-FRI

SATURDAY 8:30 AM-12:30 PM

PS Form 3849-B
July 1977

DELIVERY REMINDER OR RECEIPT

SEALING STAMPS

TA-26 (4-76) 25M

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

MARC999 33162

NOT DELIVERABLE AS ADDRESSEE
-- UNABLE TO FORWARD 46

Floyd March

999 Northeast 167th St.

North Miami Beach, Florida 33162

62010



RETURN TO SENDER
UNDELIVERABLE
AS ADDRESSED
UNABLE TO
FORWARD



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 4, 1979

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JOSEPH CHYRYWATY
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Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

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DATED: Albany, New York

May 8, 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER