

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Roger Moseson :

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 Year 1971. :

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 20th day of June, 1980, he served the within notice of Decision by certified mail upon Roger Moseson, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Roger Moseson
16 Putman Ln.
Danvers, MA 01923

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
20th day of June, 1980.

Joanne Knapp

J. J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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of

Roger Moseson :

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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 Year 1971. :

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 20th day of June, 1980, he served the within notice of Decision by certified mail upon Robert Oppenheimer 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 Oppenheimer
1100 Crossroads Office Bldg.
Rochester, NY 14614

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
20th day of June, 1980.

Joanne Krapp

J. J. Vredenburg

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

June 20, 1980

Roger Moseson
16 Putman Ln.
Danvers, MA 01923

Dear Mr. Moseson:

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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Robert Oppenheimer
1100 Crossroads Office Bldg.
Rochester, NY 14614
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ROGER MOSESON	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1971.	:	

Petitioner, Roger Moseson, 16 Putman Lane, Danvers, Massachusetts 01923, 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 1971 (File No. 10735).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, One Marine Midland Plaza, Rochester, New York, on February 16, 1978 at 1:15 P.M. Petitioner appeared by Robert Oppenheimer, Esq. The Audit Division appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioner was a person required to collect, truthfully account for and pay over the withholding taxes due from Angstrom Technology, Inc. for 1971.

FINDINGS OF FACT

1. On September 30, 1974, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Roger Moseson, imposing a penalty equal to the amount of New York State withholding taxes due from Angstrom Technology, Inc. ("Angstrom") for the period January 1, 1971 to December 31, 1971. This was done 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; therefore, on September 30, 1974, a Notice of Deficiency was issued to him for \$1,397.66.

2. Angstrom failed to pay over to the New York State Income Tax Bureau personal income taxes withheld from its employees' wages for the period January 1, 1971 to December 31, 1971, which totaled \$1,397.66.

3. Petitioner was a stockholder, a member of the Board of Directors and vice-president of Angstrom, from its inception in 1969 until July 23, 1971, when it was acquired by Megadyne Industries, Inc. He then became director of engineering but was no longer an officer. As director of engineering, he was not consulted as to which bills were to be paid; he had no power to spend money.

CONCLUSIONS OF LAW

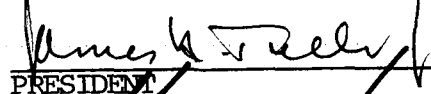
A. That petitioner, Roger Moseson, was a person required to collect, truthfully account for and pay over the withholding taxes due from Angstrom Technology, Inc. within the meaning of subsections (g) and (n) of section 685 of the Tax Law, and who willfully failed to do so. Therefore, petitioner is liable to a penalty pursuant to section 685(g) of the Tax Law, equal to the total amount of tax due from said corporation for the period January 1, to July 23, 1971.


B. That the Audit Division is instructed to modify the Notice of Deficiency issued September 30, 1974, in accordance with Conclusion of Law "A"; that except as so modified, the Notice of Deficiency is sustained, and the petition of Roger Moseson is otherwise denied.

DATED: Albany, New York

JUN 20 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER