

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Joyce Green :
: AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of NYS & NYC Income :
Tax under Article 22 & 30 of the Tax Law for the :
Period 1/1/76-6/30/76. :

State of New York
County of Albany

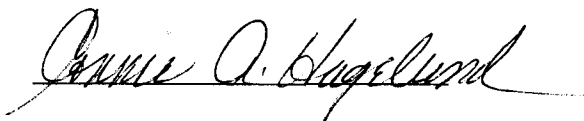
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 14th day of August, 1981, he served the within notice of Decision by certified mail upon Joyce Green, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

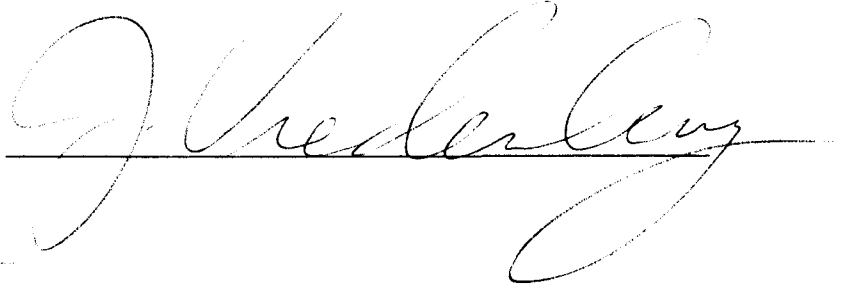
Joyce Green
160 Fenimore St.
Brooklyn, NY

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
14th day of August, 1981.





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

August 14, 1981

Joyce Green
160 Fenimore St.
Brooklyn, NY

Dear Ms. Green:

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 & 1312 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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	DECISION
JOYCE GREEN	:	
for Redetermination of Deficiencies or for	:	
Refund of Personal Income Tax under Articles	:	
22 and 30 of the Tax Law for the Period	:	
January 1, 1976 through June 30, 1976.	:	

Petitioner, Joyce Green, 160 Fenimore Street, Brooklyn, New York, filed a petition for redetermination of deficiencies or for refund of personal income tax under Articles 22 and 30 of the Tax Law for the period January 1, 1976 through June 30, 1976 (File No. 25837).

A small claims hearing was held before Samuel Levy, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 3, 1980 at 10:45 A.M. Petitioner appeared pro se. The Audit Division appeared by Ralph J. Vecchio, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether petitioner was a person required to collect, truthfully account for and pay over New York State and New York City withholding taxes due and owing from Linbar Garage, Inc. for the period January 1, 1976 through June 30, 1976.

FINDINGS OF FACT

1. On November 27, 1978, the Audit Division issued a Notice of Deficiency together with a Statement of Deficiency against petitioner, asserting penalties equal to the amount of unpaid New York State withholding taxes due and unpaid New York City withholding taxes due from Linbar Garage, Inc. (hereinafter

"Linbar") in the amount of \$339.50 and \$134.75, respectively, for the period January 1, 1976 through June 30, 1976. The penalties were issued on the ground that petitioner was a person required to collect, truthfully account for and pay over withholding taxes at issue, and that she willfully failed to do so.

2. During the period in issue, petitioner was neither an officer, employee nor shareholder in Linbar.

In support of her petition she submitted an affidavit executed by Mr. Calvin Williams, principal owner of Linbar, in which he states in part, "That Ms. Joyce Green became completely disassociated from Linbar Garage, Inc., and myself in April of 1974 and since that date, Ms. Green had no duties, jobs, responsibilities or functions for myself or Linbar Garage, Inc.

Ms. Green, at no time prepared, or was responsible for the preparation of any tax returns, documents or records for Linbar Garage, Inc. She in no way was concerned with the collection, payment or filing of any taxes, withholding or otherwise.

Any use of Ms. Green (sic) name or designation in connection with Linbar Garage, Inc., was without her knowledge or consent."

3. Petitioner terminated her relationship with the corporation prior to accrual of the liability at issue.

CONCLUSIONS OF LAW

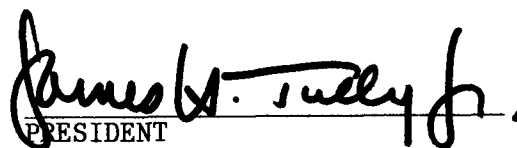
A. That petitioner Joyce Green was not a person required to collect, truthfully account for and pay over New York State and New York City income taxes withheld by Linbar Garage, Inc., within the meaning of subsections (g) and (n) of section 685 of the Tax Law. Said section is applicable to New York City taxes withheld by virtue of section 1312 of Article 30 of the Tax Law.

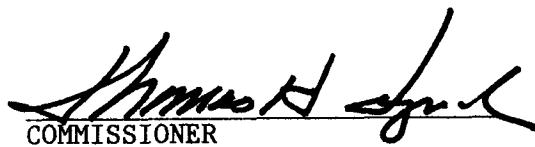
B. That the petition of Joyce Green is granted and the notices of deficiency issued November 27, 1978 are cancelled.

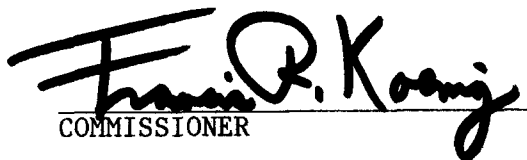
DATED: Albany, New York

STATE TAX COMMISSION

AUG 14 1981


PRESIDENT


COMMISSIONER


COMMISSIONER

TA 26 (9-79)

STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

Detached from
PS Form 3849-A
Oct. 1980

DATE

8-17-81

1ST NOTICE

2ND NOTICE

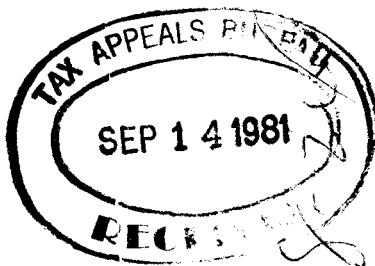
RETURN

CLAIM CHECK
NO.

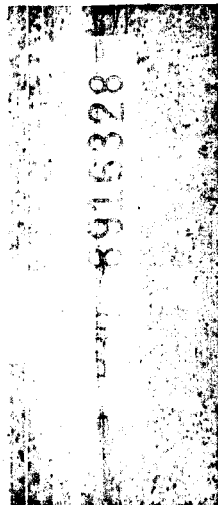
34529

☐ HOLD

Joyce Green
160 Fenimore St.
Brooklyn, NY 11225



SEP 14 1981



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

August 14, 1981

Joyce Green
160 Fenimore St.
Brooklyn, NY

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cc: Petitioner's Representative

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STATE TAX COMMISSION

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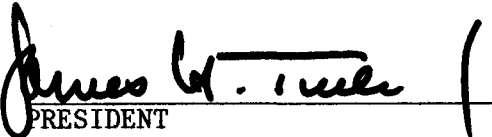
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DATED: Albany, New York

STATE TAX COMMISSION

AUG 14 1981


PRESIDENT


COMMISSIONER


COMMISSIONER