

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
Charles C. Blount :  
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 :  
1974. :  
\_\_\_\_\_ :

AFFIDAVIT OF MAILING

State of New York  
County of Albany


Connie Hagelund, being duly sworn, deposes and says that she is an employee of the State Tax Commission, over 18 years of age, and that on the 28th day of September, 1983, she served the within notice of Decision by certified mail upon Charles C. Blount, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:


Charles C. Blount  
28 Utopia Rd.  
Asheville, NC

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, 1983.

  
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\_\_\_\_\_  
AUTHORIZED TO ADMINISTER  
OATHS PURSUANT TO TAX LAW  
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
Charles C. Blount :  
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 :  
1974. :  
\_\_\_\_\_

State of New York  
County of Albany

Connie Hagelund, being duly sworn, deposes and says that she is an employee of the State Tax Commission, over 18 years of age, and that on the 28th day of September, 1983, she served the within notice of Decision by certified mail upon Dean M. Drew the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Dean M. Drew  
Drew & Drew  
159 Linwood Ave.  
Buffalo, NY 14209

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, 1983.



AUTHORIZED TO ADMINISTER  
OATHS PURSUANT TO TAX LAW  
SECTION 174

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

September 28, 1983

Charles C. Blount  
28 Utopia Rd.  
Asheville, NC

Dear Mr. Blount:

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 Law 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  
Law Bureau - Litigation Unit  
Building #9 State Campus  
Albany, New York 12227  
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Dean M. Drew  
Drew & Drew  
159 Linwood Ave.  
Buffalo, NY 14209  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
CHARLES C. BLOUNT	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law for the Year 1974.	:	

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Petitioner, Charles C. Blount, 28 Utopia Road, Asheville, North Carolina, 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 1974 (File No. 20611).

A formal hearing was held before Julius Braun, Hearing Officer, at the offices of the State Tax Commission, State Office Building, Buffalo, New York, on April 20, 1982 with all briefs to be submitted by September 1, 1982. Petitioner appeared by Drew & Drew, Esqs. (Dean M. Drew, Esq., of counsel). The Audit Division appeared by Paul B. Coburn, Esq. (Patricia Brumbaugh, Esq., of counsel).

ISSUE

Whether petitioner is liable for the penalty asserted against him pursuant to section 685(g) of the Tax Law with respect to New York State withholding taxes due from Land Site Development Corporation for the year 1974.

FINDINGS OF FACT

1. Land Site Development Corporation ("Land Site") failed to pay New York State personal income tax withheld from the wages of its employees in the amount of \$3,334.52 for the year 1974.

2. On July 25, 1977, the Audit Division issued a Notice of Deficiency against petitioner asserting a penalty equal to the amount of the unpaid New York State withholding tax due from Land Site for the year 1974.

3. Land Site, whose sole stockholder was Stanley Jedrysik, Sr., had a contract to develop Enchanted Lake at Napoli, Cattaraugus County, New York. When Mr. Jedrysik died on July 17, 1974 his son, Stanley Jedrysik, Jr. took over. Due to financial problems, and Land Site's inability to secure credit, its attorney attempted to use his son-in-law, Charles C. Blount, the petitioner herein, and his company C.C. Blount Associates, Inc. C.C. Blount Associates, Inc., P.O. Box 890, Ashville, North Carolina, a contracting company, was bonded by the Travelers Insurance Company. Travelers Insurance Company warned petitioner that insurance coverage for him and for C.C. Blount Associates, Inc. would be questionable if support was made on behalf of the New York operation. After discussion with the Travelers Insurance Company, petitioner severed connection with Land Site. The minutes of a Board of Directors meeting held June 7, 1973 at which Stanley Jedrysik, Sr. and Stanley Jedrysik, Jr. and Dorothy DuPont, Land Site's directors, were present indicated that a matter concerning petitioner was discussed. A letter was sent to petitioner stating: "that because of bonding commitments with Travelers Insurance you (petitioner) cannot be an officer, director or otherwise participate in the affairs of Land Site Development." They also stated that they were sorry that "we 'jumped the gun' in using your name and hope this letter will rectify things for you with your bonding company and not cause you any harm."

CONCLUSIONS OF LAW

A. That petitioner, Charles C. Blount was not a person required to collect, account for and pay over New York State withholding taxes. Accordingly, he is not liable to a penalty under Section 685(g) of the Tax Law.


B. That the petition of Charles C. Blount is granted and the Notice of Deficiency issued July 25, 1977 is cancelled.

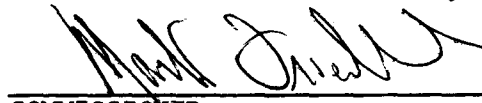
DATED: Albany, New York

STATE TAX COMMISSION

SEP 28 1983

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER