

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
Barry Schutte : 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 :  
1973 & 1974.

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State of New York  
County of Albany

David Parchuck, 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 13th day of May, 1983, he served the within notice of Default Order by certified mail upon Barry Schutte, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Barry Schutte  
3 N. Hillside Ave.  
Spring Valley, NY 10977

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  
13th day of May, 1983.

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

May 13, 1983

Barry Schutte  
3 N. Hillside Ave.  
Spring Valley, NY 10977

Dear Mr. Schutte:

Please take notice of the Default Order 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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
BARRY SCHUTTE	:	DEFAULT ORDER
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article	:	
22 of the Tax Law for the Years 1973 and 1974.	:	

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Petitioner, Barry Schutte, 3 North Hillside Avenue, Spring Valley, New York 10977, 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 1973 and 1974 (File No. 16083).

A formal hearing was scheduled to be held on January 20, 1981. This hearing date was adjourned at the request of petitioner's representative. Subsequent hearing dates of July 14, 1981 and December 15, 1981 were also adjourned. A final notice of a formal hearing scheduled to be held on November 15, 1982 at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 15, 1982 at 9:15 A.M., was sent to petitioner and to his representative. Petitioner appeared by Underweiser & Underweiser, Esqs. (Robert B. Gluckman, Esq., of counsel). The Audit Division appeared by Paul B. Coburn, Esq., (Angelo A. Scopellito, Esq., of counsel).

Petitioner did not personally attend the hearing scheduled for November 15, 1982. According to petitioner's representative, petitioner's failure to attend was due to his inability to afford plane fare to travel from California to New York for the hearing. Petitioner's representative requested a further adjournment of proceedings until such time as petitioner would be financially able to travel to New York from California to present his case.

In lieu of further adjournment, the parties agreed that petitioner's representative would prepare proposed written interrogatories to be answered by petitioner, and submit them to the Audit Division's representative by December 6, 1982 for approval and return to petitioner's representative by December 17, 1982. The interrogatories would then be completed by petitioner and submitted to the Hearing Officer by January 4, 1983. Cross interrogatories and answers thereto were to be submitted by January 31, 1983.

By a letter dated March 15, 1983, the Audit Division's representative advised that no proposed interrogatories had been submitted nor had he been contacted by petitioner's representative. Accordingly, it was moved that a default judgement be entered against the petitioner.

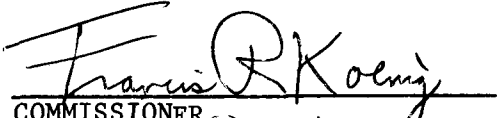
That in view of the expiration of the stated time within which to prepare and submit evidence as specified above, and upon motion by the attorney for the Audit Division, it is hereby ordered that the petition of Barry Schutte is denied and the Notice of Deficiency dated May 24, 1976 is sustained.


DATED: Albany, New York

STATE TAX COMMISSION

MAY 13 1983

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

TA 26 (9-79)

STATE OF NEW YORK  
State Tax Commission  
TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

767465

Q HOLD

DATE

5/16

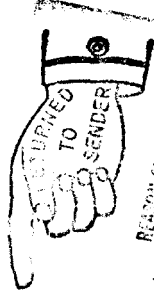
NOTICE

5/23/83

CERTIFIED

389 758 973

MAIL



REASON CITED

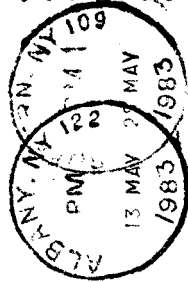
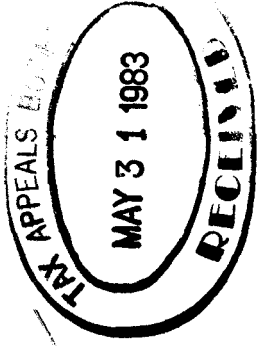
Undelivered  
Address unknown  
Undelivered address  
No such office in state  
Not return in this envelope

Sherry Schutte

3 N. Hillside Ave.

Spring Valley, NY 10977

*Sherry Schutte*



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

May 13, 1983

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3 N. Hillside Ave.  
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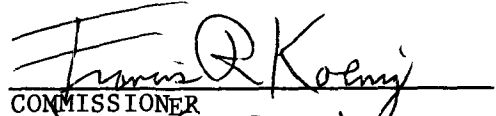
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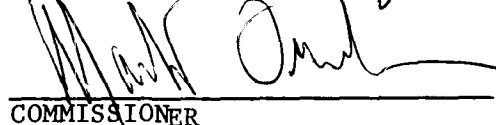
DATED: Albany, New York

STATE TAX COMMISSION

MAY 13 1983

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER