

STATE OF NEW YORK
STATE TAX COMMISSION

*Sultan, Bernard
Pers Inc
1970*

In the Matter of the Petition

of
Bernard Sultan, Joseph Sultan, :
and Esther Sultan :
For a Redetermination of a Deficiency or :
a Refund of Personal Income :
Taxes under Article(s) 22 of the :
Tax Law for the (Year(s) 1962 :

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

*Decision
cc # 99-331*

State of New York
County of Albany

Claire A. Draves , 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 21st day of December , 1970 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Bernard Sultan, Joseph
Sultan, & Esther Sultan (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Bernard, Joseph and Esther Sultan
c/o Herman S. Geist, Esq.
341 Madison Avenue
New York, New York
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

21st day of December, 1970

[Signature]

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
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and Esther Sultan :

For a Redetermination of a Deficiency or
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New York, New York 10017

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Sworn to before me this

21st day of December , 1970

Edward R. Rook

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
BERNARD SULTAN, JOSEPH SULTAN,	:	DECISION
and ESTHER SULTAN	:	
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1962	:	

Bernard Sultan, Joseph Sultan, deceased, by his wife Esther Sultan, and Esther Sultan have filed petitions for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1962. (File # 13 0418050) A formal hearing was held before Francis X. Boylan, Hearing Officer, on December 10, 1969 at 2:30 P.M. The petitioners appeared by Herman S. Geist, Esq. The Income Tax Bureau appeared by Edward H. Best, Esq. (Albert J. Rossi, Esq., of counsel).

FINDINGS OF FACT

1. Aetna Fire Proofing Company, Inc. was a corporation doing business in New York State until August 24, 1962 when it filed an assignment for the benefit of creditors.
2. Petitioner, Joseph Sultan was president of Aetna Fire Proofing Company, Inc. until his death on June 13, 1962.
3. Petitioner, Bernard Sultan was an officer of Aetna Fire Proofing Company, Inc. until August 24, 1962 and was the principal officer of the corporation during the period July 1, 1962 to August 24, 1962.
4. On July 16, 1962 Aetna Fire Proofing Company, Inc. paid \$5100.00 as an estimated payment of withholding taxes for the third quarter of 1962.

5. On December 20, 1962 a withholding tax return was filed on behalf of Aetna Fire Proofing Company, Inc. showing a withholding tax due for the third quarter of 1962 of \$6918.31.

6. Aetna Fire Proofing Company, Inc. owed a balance of \$1818.31 for withholding taxes for the third quarter of 1962 which balance was not paid by it.

7. On February 9, 1966, the Income Tax Bureau pursuant to Section 685 of this Tax Law, issued notices of deficiency imposing a penalty of \$1818.31 against the petitioners, equal to the taxes withheld by Aetna Fire Proofing Company, Inc. and not paid to the State of New York for the quarter ending September 30, 1962 on a finding that the petitioners, as persons required to collect and pay over taxes, had willfully failed to do so.

8. Petitioner, Bernard Sultan failed to show by documentary or other sufficient evidence that he was not a responsible person required to collect, account for and pay over withholding taxes or that he did not willfully fail to collect, account for and pay over said taxes.

9. Petitioner, Esther Sultan failed to show by documentary or other sufficient evidence that she was not involved in the financial operations of Aetna Fire Proofing Company, Inc. between July 1, 1962 and August 24, 1962.

CONCLUSIONS OF LAW

A. That petitioner, Joseph Sultan, having died prior to the commencement of the third quarter of 1962, was not a person required to collect, account for and pay over withholding taxes within the meaning of Section 685(g) of the Tax Law.

B. That petitioners, Bernard Sultan and Esther Sultan, were persons required to collect, account for and pay over withholding

taxes within the meaning of Section 685(g) of the Tax Law, that they failed to pay over such taxes in the sum of \$1818.31, and that such failure to pay over such taxes was willful within the meaning of Section 685(g) of the Tax Law.

C. That the petition of Joseph Sultan for redetermination of the deficiency is granted and the notice of deficiency issued February 9, 1966 against petitioner Joseph Sultan in the amount of \$1818.31 is incorrect and is cancelled.

D. That the petitions of Bernard Sultan and Esther Sultan for redetermination of the deficiency is denied and the notices of deficiency issued February 9, 1966 against petitioners Bernard Sultan and Esther Sultan in the amount of \$1818.31 are affirmed.

DATED: Albany, New York
December 14, 1970

STATE TAX COMMISSION

Norman Jackson

COMMISSIONER

Bruce Manley

COMMISSIONER

Wilton Koenig

COMMISSIONER