

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
EARL SALLEY, JR.

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) 1965 & 1967 :

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

State of New York  
County of Albany

Martha Funaro , 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 27th day of July , 1972 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Earl Salley, Jr.

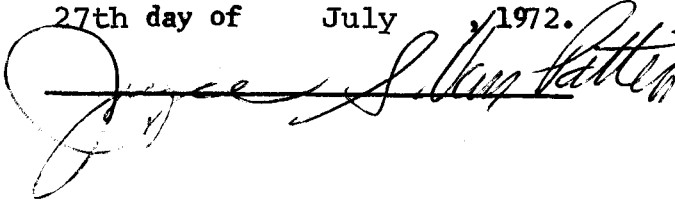
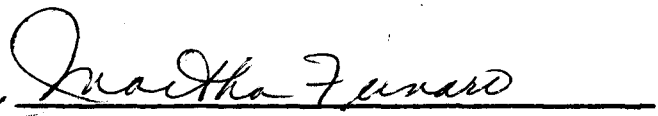
(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Earl Salley, Jr.  
R.D. #2 Wheeler Drive  
Peekskill, New York

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

27th day of July , 1972.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
BUILDING 9, ROOM 214A  
STATE CAMPUS  
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

AREA CODE 518  
457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**July 27, 1972**

**Earl Salley, Jr.**  
**R.D. #2 Wheeler Drive**  
**Peekskill, New York**

**Dear Mr. Salley:**

Please take notice of the **DECISION**  
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to  
Section(s) **689** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 Months**  
from the date of this notice.

Any inquiries concerning the computation of tax  
due or refund allowed in accordance with this  
decision or concerning any other matter relative  
hereto may be addressed to the undersigned.  
These will be referred to the proper party for  
reply.

Very truly yours,

**Nigel G. Wright**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
EARL SALLEY, JR.	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Years 1965 and 1967.	:	

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Earl Salley, Jr. filed a petition pursuant to section 689 of the Tax Law for a redetermination of two deficiencies issued under date of October 28, 1968, for personal income taxes due from the wages of employees under Article 22 of the Tax Law for the years 1965 and 1967.

A hearing was held on August 11, 1971, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. Petitioner appeared but was not represented. The Income Tax Bureau was represented by Edward H. Best, Esq. (Francis X. Boylan, Esq., of Counsel). The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner is a responsible officer of two corporations who willfully failed to pay over income taxes due from employees.

FINDINGS OF FACT

1. Tudor Typographers, Inc. of 305 East 45th Street, New York City was in the business of setting type for printing jobs from advertising agencies.

2. Salley and Collins, Inc. of 305 East 45th Street, New York City was in the printing business. Its customers were mostly advertising agencies.

3. Tudor Typographers, Inc. and Salley and Collins, Inc. shared the same premises and jointly employed from 35 or 40 people.

4. The president and sole stockholder of both companies was Earl Salley, Sr., prior to 1962 when Earl Salley, Jr., became president and sole stockholder. Earl Salley, Jr., admits responsibility for the withholding taxes and the deficiencies here in issue. He asserts, however, that his treasurer, Mr. Holzman, should share that responsibility.

5. Mr. Robert Holzman joined Tudor Typographers, Inc. and Salley and Collins, Inc. in about 1940. He became treasurer in 1951, succeeding Mr. Salley, who left the companies at that time. He resigned as treasurer on March 31, 1967, but continued to perform the same duties except that he did not sign checks. He left the company in November, 1967.

6. The companies were in bad financial shape in 1962 when Earl Salley, Jr., became president. The situation grew progressively worse. The companies were chronically short of cash and had to be pressed by creditors. Withholding taxes were not paid. No financial statements were offered in evidence. Mr. Holzman asserts that when he resigned as treasurer, the company had just received \$12,000.00 which could have been used to pay the withholding taxes and this was not denied by Mr. Salley who was present.

7. The companies made a general assignment for the benefit of creditors in December, 1967, to Alfred Rosenberg of Court Street, Brooklyn, New York.

8. The deficiency attributable to taxes due from Tudor Typographers, Inc. amounts to \$5,234.19. The deficiency attributable to taxes due from Salley and Collins, Inc. amounts to \$2,510.13.

CONCLUSIONS OF LAW

By admission of petitioner, he is responsible for the taxes due.

DECISION

The petition is denied. The deficiency is affirmed together with such interest as may be due under section 684 of the Tax Law.

DATED: Albany, New York  
*July 27, 1972*

STATE TAX COMMISSION

*Norman Jellman*  
\_\_\_\_\_  
COMMISSIONER

*Bruce Cronley*  
\_\_\_\_\_  
COMMISSIONER

*Melvin Korman*  
\_\_\_\_\_  
COMMISSIONER