

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HERBERT B. MISKIND

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 and 1967.

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

State of New York  
County of Albany

Lynn Wilson, 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 28th day of August, 1973, she served the within  
Notice of Decision (or Determination) by (certified) mail upon HERBERT B.

MISKIND (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

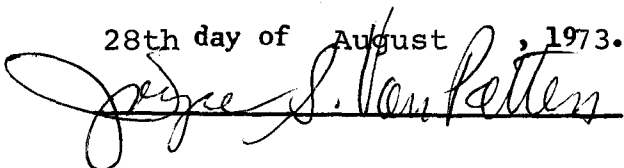
wrapper addressed as follows: Mr. Herbert B. Miskind  
1853 Central Park Avenue  
Yonkers, New York

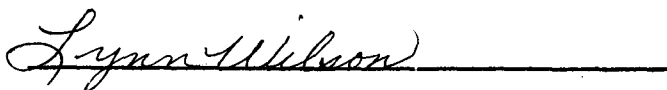
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Post Office Department within the State of New York.

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

28th day of August, 1973.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION  
Mario A. Procaccino,  
~~NORTH POPLAR MANLY~~ PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York  
August 28, 1973

Mr. Herbert B. Miskind  
1853 Central Park Avenue  
Yonkers, New York

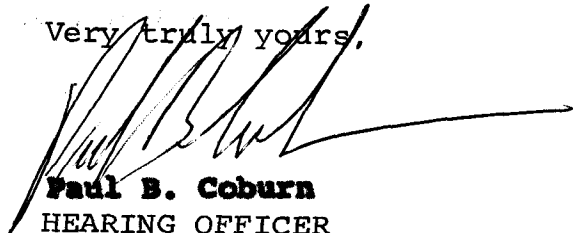
Dear Mr. Miskind:

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

Please take further notice that pursuant to  
Section(s) **690** 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,

  
Paul B. Coburn  
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	:	
HERBERT B. MISKIND	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1965 and 1967.	:	

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Petitioner, Herbert B. Miskind, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1965 and 1967 (File No. 13-2504300). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on July 16, 1973, at 3:00 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of Counsel).

ISSUE

Is petitioner, Herbert B. Miskind, liable for unpaid New York State withholding taxes due from American Feed Company, Inc. for the year 1965 and for the period from October 1, 1967 through December 31, 1967?

FINDINGS OF FACT

1. American Feed Company, Inc. failed to pay over to the Income Tax Bureau New York State personal income taxes withheld from its employees for the year 1965 in the sum of \$34.00 and

for the period from October 1, 1967 through December 31, 1967 in the sum of \$1,092.00. The corporation is presently defunct.

2. On October 28, 1968, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Herbert B. Miskind, imposing a penalty equal to the amount of New York State withholding taxes due from American Feed Company, Inc. for the year 1965 and for the period from October 1, 1967 through December 31, 1967 upon the grounds that he was a person required to collect, truthfully account for and pay over said taxes and that he willfully failed to do so. It accordingly issued a Notice of Deficiency against him in the sum of \$1,126.00.

3. Petitioner, Herbert B. Miskind, was employed by American Feed Company, Inc. from 1959 until December 11, 1967. In 1963 he invested \$10,000.00 in the corporation for which he received a twenty-five percent stock interest.

4. During the year 1965 and the period from October 1, 1967 through December 11, 1967, petitioner, Herbert B. Miskind, was secretary of American Feed Company, Inc. His duties consisted of acting as the general manager of the corporation's affairs. He signed corporate checks and tax returns.

5. Petitioner, Herbert B. Miskind, was discharged as an officer and employee of American Feed Company, Inc. on December 11, 1967. He failed to submit any documentary or other substantial evidence to prove the amount of withholding taxes that may have accrued after the date of his discharge.

CONCLUSIONS OF LAW

A. That petitioner, Herbert B. Miskind, as an officer of American Feed Company, Inc., was a person required to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the year 1965 and for the period from October 1, 1967 through December 31, 1967, in accordance with the meaning and intent of sections 674 and 685(1) of the Tax Law.

B. That petitioner, Herbert B. Miskind, willfully failed to collect, truthfully account for and pay over New York State withholding taxes due from American Feed Company, Inc. for the year 1965 and the period from October 1, 1967 through December 31, 1967, and therefore a penalty equal to the amount of the unpaid withholding taxes was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That the petition of Herbert B. Miskind is denied and the Notice of Deficiency issued October 28, 1968, is sustained.

DATED: Albany, New York  
August 28, 1973

STATE TAX COMMISSION

*Walter A. Pincus*

COMMISSIONER

*Bruce Wadley*

COMMISSIONER

*William Krumm*

COMMISSIONER

STATE OF NEW YORK  
Department of Taxation and Finance

STATE CAMPUS  
ALBANY, N. Y. 12227



REASON CHECKED  
[illegible], not forwardable

Mr. Herbert B. Miskind  
1853 Central Park Avenue  
Yonkers, New York

att.  
Paul B. Johnson  
Bldg 779



# DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION  
Mario A. Procaccino,  
~~XXXXXXXXXXXXXXXXXXXX~~ PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

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August 28, 1973

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Yonkers, New York

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of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to  
Section(s) 690 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  
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These will be referred to the proper party for  
reply.

Very truly yours,

Paul B. Coburn  
HEARING OFFICER

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cc: Petitioner's Representative  
Law Bureau

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CONCLUSIONS OF LAW

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B. That petitioner, Herbert B. Miskind, willfully failed to collect, truthfully account for and pay over New York State withholding taxes due from American Feed Company, Inc. for the year 1965 and the period from October 1, 1967 through December 31, 1967, and therefore a penalty equal to the amount of the unpaid withholding taxes was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. That the petition of Herbert B. Miskind is denied and the Notice of Deficiency issued October 28, 1968, is sustained.

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DEPARTMENT OF TAXATION AND FINANCE

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COMMISSIONER

  
COMMISSIONER

**STATE OF NEW YORK**  
**Department of Taxation and Finance**  
**STATE CAMPUS**  
**ALBANY, N. Y. 12227**

Mr. Herbert B. Miskind  
1853 Central Park Avenue  
Yonkers, New York

☐ Moved, left no address  
☐ No such number  
☒ Moved, not in new table  
☐ Addressed unknown

# CERTIFIED

No. 458694

MAIL