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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

BENJAMIN BRONFMAN

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 & 1963.:

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 6th day of February, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Benjamin
Bronfman (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Mr. Benjamin Bronfman
853 South Long Beach Avenue
Freeport, 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

6th day of February, 1974.

Joseph H. Patterson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 6th day of February, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Louis L.

Kaplan, Esq. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

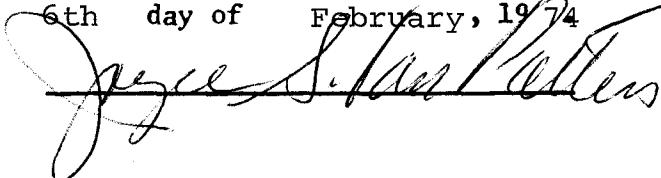
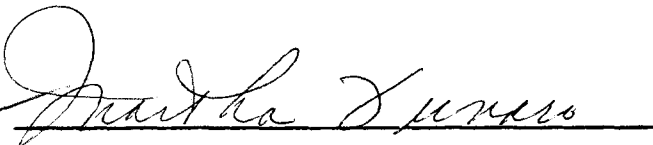
Louis L. Kaplan, Esq.
101 W. 30th Street
New York, New York

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Sworn to before me this

6th day of February, 1974



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

~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 6, 1974

Mr. Benjamin Bronfman
853 South Long Beach Avenue
Fresport, New York

Dear Mr. Bronfman:

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

In the Matter of the Petition	:	
	:	
of	:	
	:	
BENJAMIN BRONFMAN	:	DECISION
	:	
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1962 and 1963.	:	

Petitioner, Benjamin Bronfman, 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 1962 and 1963. (File No. 111674480).

Formal hearings in the above-entitled matter were held before Alfred Rubenstein, Hearing Officer on November 25, 1966 and June 27, 1967 and before Paul B. Coburn, Hearing Officer, on September 21, 1973 at the offices of the State Tax Commission, 80 Centre Street, New York, New York. Petitioner appeared by Louis L. Kaplan, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq. (James A. Scott, Esq. of Counsel).

ISSUE

Is petitioner, Benjamin Bronfman, liable for unpaid New York State withholding taxes due from Brofman Machine Corporation for the quarters ending September 30, 1962, December 31, 1962, and March 31, 1963?

FINDINGS OF FACT

1. Brofman Machine Corporation failed to pay over to the Income Tax Bureau, New York State personal income taxes withheld from its employees in the sums of \$565.50 for the quarter ending September 30, 1962, \$436.70 for the quarter ending December 31, 1962 and \$87.00 for the quarter ending March 31, 1963.

2. On February 5, 1965 the Income Tax Bureau issued a Notice and Demand for Payment of Tax Due Under Jeopardy Assessment against petitioner, Benjamin Bronfman, imposing a penalty equal to the amount of New York State withholding taxes due from Brofman Machine Corporation for the quarters ending September 30, 1962, December 31, 1962, and March 31, 1963 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. On March 1, 1965, it accordingly issued a Notice of Deficiency against him in the sum of \$1,089.20.

3. Petitioner, Benjamin Bronfman, was President and Secretary of Brofman Machine Corporation during the period from July 1, 1962 through March 31, 1963. He owned 50% of the stock of the corporation. The corporation was engaged in the manufacturing of buttons. He maintained an active role in the management of the affairs of the corporation. He signed corporate checks and tax returns. He had access to the books and records of the corporation during this period.

4. Petitioner, Benjamin Bronfman, received a general release from Brofman Machine Corporation on December 30, 1963. The release was executed by Jules Friedman, a vice president of the corporation. A corporation owned by Mr. Friedman owned 50% of the stock of Brofman Machine Corporation.

CONCLUSIONS OF LAW

A. That petitioner, Benjamin Bronfman, as an officer of Brofman Machine Corporation was a person required to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the quarters ending September 30, 1962, December 31, 1962, and March 31, 1963 in accordance with the meaning and intent of sections 674 and 685(1) of the Tax Law.

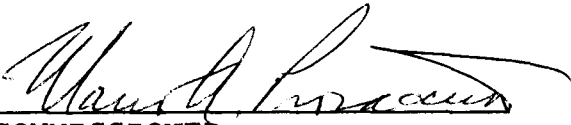
B. That since petitioner, Benjamin Bronfman, willfully failed to collect, truthfully account for and pay over New York State withholding taxes due from Brofman Machine Corporation for the quarters ending September 30, 1962, December 31, 1962, and March 31, 1963, therefore a penalty equal to the amount 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.

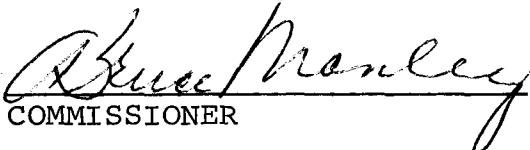
C. That the execution and delivery of a general release from Brofman Machine Corporation to petitioner, Benjamin Bronfman, in December 1963 did not release him of any liability for penalties imposed by New York State for unpaid corporate withholding taxes for prior periods.

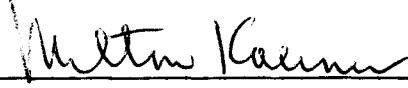
D. That the petition of Benjamin Bronfman is denied and the Notice of Deficiency issued March 1, 1965, is sustained.

DATED: Albany, New York
February 6, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER