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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CHARLES COHN

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) 1969.

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 21st day of June, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon CHARLES COHN

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

wrapper addressed as follows: Mr. Charles Cohn  
2452 Devoe Terrace  
Bronx, New York 10468

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 June, 1974

James S. Van Patten

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CHARLES COHN

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) 1969.

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State of New York  
County of Albany

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age, and that on the 21st day of June, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon BENEDICT B. KATZ, C.P.A.

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

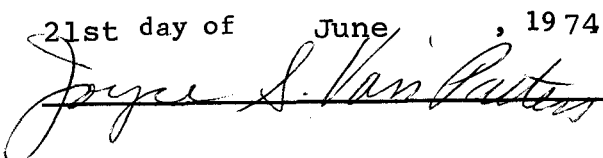
wrapper addressed as follows: Benedict B. Katz, C.P.A.  
570 Seventh Avenue  
New York, New York 10018

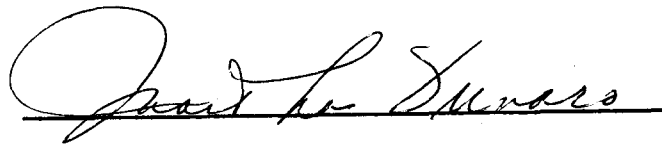
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21st day of June, 1974







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

DATED: Albany, New York

June 21, 1974

Mr. Charles Cohn  
2452 Devos Terrace  
Bronx, New York 10468

Dear Mr. Cohn:

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

Please take further notice that pursuant to  
Section (a) 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,

**Nigel G. Wright**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
CHARLES COHN	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1969.	:	

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Petitioner, Charles Cohn, has filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1969. (File No. 13-2626141.) A calendar call was scheduled at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on March 11, 1974, at 3:30 P.M. On March 25, 1974, petitioner executed a written waiver of formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Was petitioner, Charles Cohn, a responsible officer or employee and thus liable for unpaid New York State withholding taxes due from Haus Operating Service, Inc. for the period from January 1, 1969 through September 30, 1969?

FINDINGS OF FACT

1. Haus Operating Service, Inc. failed to pay over to the Income Tax Bureau, New York State personal income taxes withheld

from its employees for the period from January 1, 1969 through September 30, 1969, in the sum of \$1,872.38.

2. On January 18, 1971, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Charles Cohn, equal to the amount of New York State withholding taxes due from Haus Operating Service, Inc. upon the grounds that he was a person required to collect, truthfully account for and pay over said taxes and that he wilfully failed to do so. It accordingly issued a Notice of Deficiency in said amount.

3. Petitioner, Charles Cohn, was president and sole stockholder of Haus Operating Service, Inc. during the period in question. He signed tax returns in his capacity as president of Haus Operating Service, Inc. He had authority to sign and did sign checks.

4. On November 26, 1969, petitioner, Charles Cohn, sold his entire interest in Haus Operating Service, Inc. and other related corporations to two former employees, Raymond Messina and James Needham. The agreement provided for the buyers to take over all liabilities including said withholding tax liability.

#### CONCLUSIONS OF LAW

A. That petitioner, Charles Cohn, as an officer and sole stockholder of Haus Operating Service, Inc. was a person required to collect, truthfully account for and pay over New York State withholding taxes due from said corporation for the period from January 1, 1969 through September 30, 1969, in accordance with the meaning and intent of sections 674 and 685(1) of the Tax Law.

B. That since petitioner, Charles Cohn, wilfully failed to collect, truthfully account for and pay over New York State withholding taxes due from Haus Operating Service, Inc. for the period from January 1, 1969 through September 30, 1969, therefore, a penalty equal to the amount of unpaid withholding taxes was properly assessed against him in accordance with the meaning and intent of section 685(g) of the Tax Law.

C. The State Tax Commission is not bound by any agreement delegating responsibility to pay over withholding tax.

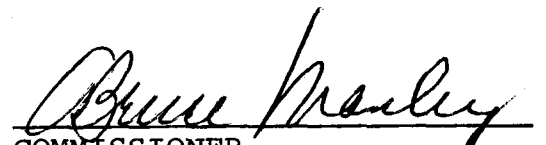
D. That the petition of Charles Cohn is denied and the Notice of Deficiency issued January 18, 1971 is sustained.

DATED: Albany, New York

June 21, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER