

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SAUL BERNSTEIN, LEONARD MILTON,
RODNEY A. COVER, LEONARD SEEMAN
For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article (x) 22 of the
Tax Law for the Year(s) ~~xxx Period (x)~~
1971, 1972 and 1973.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Marsina Donnini, 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 30th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Saul Bernstein

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

Mr. Saul Bernstein
2797 School Street
Bellemore, New York 11710

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 Postal Service within the State of New York.

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

30th day of June, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

SAUL BERNSTEIN, LEONARD MILTON, :
of : AFFIDAVIT OF MAILING
RODNEY A. COVER, LEONARD SEEMAN :
For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (22) 22 of the :
Tax Law for the Year(s) ~~or Period(s)~~ :
1971, 1972 and 1973.

State of New York
County of Albany

Marsina Donnini, 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 30th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Leonard Milton

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

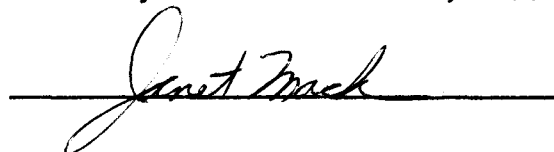
Mr. Leonard Milton
Windsor Gate
Great Neck, New York 11020

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 Postal Service within the State of New York.

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

30th day of June, 1977.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SAUL BERNSTEIN, LEONARD MILTON,
RODNEY A. COVER, LEONARD SEEMAN
For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year(s) ~~xxx Period(x)~~
1971, 1972 and 1973.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Marsina Donnini, 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 30th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Rodney A. Cover

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

Mr. Rodney A. Cover
6382 Arizona Circle
Los Angeles, California 90045

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 Postal Service within the State of New York.

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

30th day of June, 1977

Janet Mack

Marsina Donnini

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SAUL BERNSTEIN, LEONARD MILTON, : AFFIDAVIT OF MAILING
RODNEY A. COVER, LEONARD SEEMAN :
For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year(s) ~~xxx xxxxx~~ (s) :
1971, 1972 and 1973.

State of New York
County of Albany

Marsina Donnini, 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 30th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Leonard Seeman

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

Mr. Leonard Seeman
263 Lakeview Avenue West
Brightwater, New York 11718

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 Postal Service within the State of New York.

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

30th day of June, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

June 30, 1977

TELEPHONE: (518) **457-1723**

Mr. Saul Bernstein
2797 School Street
Bellemore, New York 11710

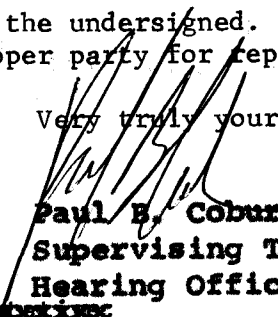
Dear Mr. Bernstein:

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

Please take further notice that pursuant to
Section(~~20~~) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,


Paul E. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: ~~Registration and Representation~~

Taxing Bureau's Representative:



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 30, 1977

TELEPHONE: (518) **457-1723**

Mr. Leonard Milton
Windsor Gate
Great Neck, New York 11020

Dear Mr. Milton:

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

Please take further notice that pursuant to
Section(x) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Enc.

Paul B. Coburn
Supervising Tax
Hearing Officer

cc: ~~Re: [illegible]~~

Taxing Bureau's Representative:



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 30, 1977

TELEPHONE: (518) **457-1723**

Mr. Rodney A. Cover
6382 Arizona Circle
Los Angeles, California 90045

Dear Mr. Cover:

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

Please take further notice that pursuant to
Section(**X**) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: ~~Personnel and Supervision:~~

Taxing Bureau's Representative:



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

June 30, 1977

457-1723

TELEPHONE: (518)

Mr. Leonard Seeman
263 Lakeview Avenue West
Brightwater, New York 11718

Dear Mr. Seeman:

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

Please take further notice that pursuant to
Section(**X**) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: ~~Enclosed for Representative:~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petitions	:	
of	:	
SAUL BERNSTEIN	:	
LEONARD MILTON	:	
RODNEY A. COVER	:	DECISION
LEONARD SEEMAN	:	
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Years	:	
1971, 1972 and 1973.	:	

Petitioners, Saul Bernstein, Leonard Milton, Rodney A. Cover and Leonard Seeman, of 2797 School Street, Bellemore, New York; Windsor Gate, Great Neck, New York; 14 Pilgram Path, Huntington, New York; and 263 Lakeview Avenue West, Brightwater, New York, respectively, filed petitions for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1971, 1972 and 1973 (File Nos. 0011288, 0011294, 0011290, 0011297).

A formal hearing was held before Harvey Baum, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on January 13, 1977 at 9:15 A.M. Petitioners appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Michael Fox, Esq., of counsel).

ISSUE

Whether petitioners are liable for withholding taxes not paid during the period June 1, 1971 through February 15, 1973, by the subject corporation, Filtron Company, Inc., in the total amount of \$23,925.82.

FINDINGS OF FACT

1. The subject corporation, Filtron Company, Inc., failed to pay employee withholding taxes for the subject period in the amount of \$23,925.82. The Income Tax Bureau took the position that the named petitioners are responsible officers of said corporation and are, accordingly, personally liable for the withholding tax deficiency for the subject period in the amount heretofore mentioned.

2. Accordingly, the Income Tax Bureau issued notices of deficiency against petitioners herein for withholding taxes due in the amount of \$23,925.82.

3. Petitioners timely filed petitions for redetermination of deficiency of personal income tax for the subject period herein.

4. Petitioner, Leonard Milton, was elected president of the subject corporation, Filtron Company, Inc., which is a wholly owned subsidiary of Liquidonics Industries, Inc., which corporation acquired full control of the subject company in August 1967.

In 1970, petitioner, Milton, retired as president and was elected Chairman of the Board of the subject corporation and thereafter had no financial authority for Filtron's operations. In March, 1971, petitioner, Milton, refused an offer to become president of Filtron, but remained as Chairman of the Board. Petitioner, Milton, only had limited authority to co-sign the checks of Filtron in emergency situations. All checks required two signatures.

5. Petitioner, Saul Bernstein, was not an officer of the subject corporation nor a member of the Board of Directors other than for a short period from April 28, 1972 until May 11, 1972, when he was appointed an officer, but resigned his position. He was never a responsible officer during such period for the financial operations of Filtron Company, Inc.

6. Petitioner, Leonard Seeman, was elected secretary-vice president of the subject corporation in 1970, and had full authority to sign checks and otherwise assist in the financial operations of the subject corporation during the subject period.

7. Petitioner, Rodney Cover, was elected treasurer of the subject corporation in 1970 and throughout the period had full authority over the financial operations of the subject corporation, and indeed is the signatory to the New York State withholding tax returns during the subject period. He also had full authority to co-sign checks of the subject corporation.

8. It further appears that the subject corporation was in dire financial straits during the period, leading to its filing of bankruptcy some time early in 1974. This was in large part due to the financial control and decisions of the parent company, Liquidonics Industries, Inc., which sought to allocate funds away from the subject corporation to its other subsidiaries.

CONCLUSIONS OF LAW

A. That petitioners, Rodney A. Cover and Leonard Seeman, are responsible officers of Filtron Company, Inc., for its financial operations during the period June 1, 1971 through February 15, 1973, and are therefore personally liable for the withholding taxes due within the meaning and intent of section 685(g) of the Tax Law.

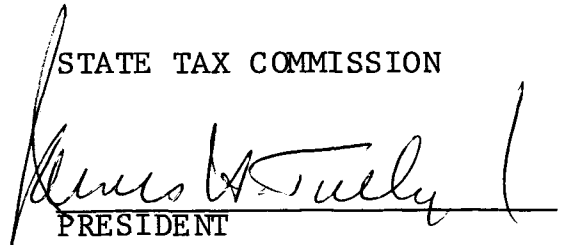
B. That petitioners, Leonard Milton and Saul Bernstein, were not financially responsible officers of the subject corporation during this period and are accordingly not personally liable for the withholding taxes of Filtron Company, Inc. for the subject period within the meaning and intent of section 685(g) of the Tax Law.

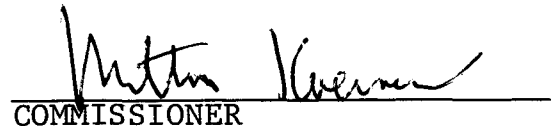
C. That the petitions of the herein named petitioners are granted to the extent that petitioners, Saul Bernstein and

Leonard Milton, are hereby not found to be personally liable for the withholding taxes heretofore assessed against all petitioners; that the Income Tax Bureau is hereby directed accordingly to cancel the notices of deficiency issued against petitioners, Bernstein and Milton; and that, except as so granted, the petitions are in all other respects denied.

DATED: Albany, New York
June 30, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER