

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ABE MILECHMANN

AFFIDAVIT OF MAILING

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) or Period(s) :
1969 and 1970

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 27th day of July, 1977, she served the within
Notice of Decision by (certified) mail upon Abe Milechmann

(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Abe Milechmann
100-30 DeKruif Place
Bronx, NY 10475

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

27th day of July, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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ABE MILECHMANN

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For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article(*) 22 of the :
Tax Law for the Year(s) or ~~Period(s)~~ :
1969 and 1970

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 27th day of July, 1977, she served the within Notice of Decision by (certified) mail upon Sol Rosenkrantz (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Sol Rosenkrantz, CPA
2258 National Drive
Brooklyn, NY 11234
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

27th day of July, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

July 27, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

**Mr. Abe Milechmann
100-30 DeKruif Place
Bronx, NY 10475**

Dear Mr. Milechmann:

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

You have now exhausted your right of review at the administrative level. Pursuant to section **(x) 690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywat / meq
**Joseph Chyrywat
Hearing Examiner**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
ABE MILECHMANN	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Years 1969 and 1970.	:	

Petitioner, Abe Milechmann, residing at 100-30 DeKruif Place, Bronx, New York 10475, has filed a petition for re-determination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1969 and 1970. (File No. 13316).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on October 21, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Sol Rosenkrantz, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Paul Rosenkranz, Esq. of counsel).

ISSUE

Whether petitioner, Abe Milechmann, is liable for unpaid New York State withholding taxes due from Pamo Shoes, Inc. for the years 1969 and 1970.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Pamo Shoes, Inc. failed to pay over to New York State withholding taxes due for the years 1969 and 1970. The corporation is now insolvent.

2. During the years 1969 and 1970, petitioner was a fifty percent stockholder and president of Pamo Shoes, Inc.

3. Petitioner was not a participant in the administrative and office functions of the company; his primary duty was in the production aspects of the company.

4. Petitioner was authorized to sign corporate checks.

5. Petitioner did not maintain the books and records nor did he prepare or sign corporate tax returns of any type.

6. Petitioner presented no evidence to indicate that he was not privy to the financial matters of Pamo Shoes, Inc. or that he was without authority to keep himself informed of the administrative and office functions of said corporation.

7. Petitioner has not sustained the burden of proof necessary to substantiate that he was not a person required to collect, truthfully account for, and pay over New York State withholding taxes in accordance with the meaning and intent of section 685(n) of the Tax Law.

8. Petitioner has not sustained the burden of proof necessary to substantiate that he did not willfully fail, or cause Pamo Shoes, Inc. to willfully fail to collect, truthfully account for or pay over New York State withholding taxes due from said corporation in accordance with the meaning and intent of section 685(g) of the Tax Law.

9. The penalty equal to the total amount of unpaid withholding taxes due from Pamo Shoes, Inc. pursuant to section 685(g) of the Tax Law was properly assessed against petitioner.

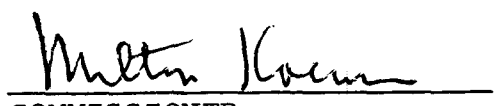
10. The petition of Abe Milechmann is denied and the Notice of Deficiency issued September 24, 1973 in the sum of \$1,331.70 is sustained.

DATED: Albany, New York
July 27, 1977


STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER