

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

FREDERICK C. PETERSEN

AFFIDAVIT OF MAILING

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) or ~~Period(s)~~ 1971.:

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 7 day of July, 19 77, she served the within Notice of Decision by (certified) mail upon Frederick C. Petersen ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Frederick C. Petersen  
370 West 58th Street  
New York, New York 10019  
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)~~ ~~xxxxxx~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~(representative of the)~~ ~~xxxxxx~~ petitioner.

Sworn to before me this

7 day of July, 19 77

Marsina L. Donnini

Janet Mack



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

July 7, 1977

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

Mr. Frederick C. Petersen  
370 West 58th Street  
New York, New York 10019

Dear Mr. Petersen:

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.

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,

Frank J. Puccia

Supervisor of Small Claims Hearings

Enc.

cc: ~~Decisioner's Representative~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
FREDERICK C. PETERSEN	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Year 1971.	:	

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Petitioner, Frederick C. Petersen, residing at 370 West 58th Street, New York, New York 10019, has filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1971 (File No. 13-1990716).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on October 22, 1976 at 1:15 p.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (I.A. Levy, Esq. of counsel).

ISSUE

Whether the petitioner, Frederick C. Petersen, is subject to a penalty for willful failure to collect and pay over withholding taxes, pursuant to section 685(g) of Article 22 of the Tax Law.

FINDINGS OF FACT

1. The Income Tax Bureau issued a Notice of Deficiency dated July 30, 1973, imposing a section 685(g) penalty for the petitioner's failure to collect and pay over personal income taxes withheld by Abver Restaurant, Inc.

2. Petitioner, Frederick C. Petersen, stated that he was never an employee, stockholder, creditor, or officer of Abver Restaurant, Inc.

3. An individual by the name of John Roth approached the petitioner with the promise of making him a partner on the condition that the petitioner would allow the use of his name for the purpose of obtaining a liquor license. The petitioner signed for the liquor license, but was never given stock or any other financial interest in Abver Restaurant, Inc.

4. The signature which appears on the "Employer Semi-Annual" (IT-2101-S) is not petitioner's signature, and that he never signed tax returns of any type for Abver Restaurant, Inc.

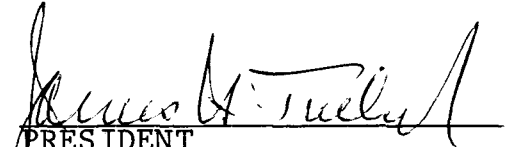
CONCLUSIONS OF LAW

A. That the petitioner, Frederick C. Petersen, is not a "person under a duty to perform the act in respect of which the violation occurs" as defined in section 685(n) and is therefore not subject to the penalty imposed under section 685(g) of the Tax Law.

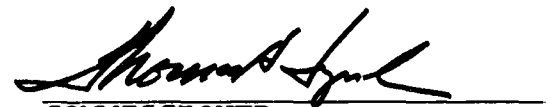
B. That the petition of Frederick C. Petersen is granted  
and the Notice of Deficiency issued July 30, 1973 is cancelled.

DATED: Albany, New York  
July 7, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER