

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
LEONARD POLTRACK

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 (x) or ~~Period(s)~~ :
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 27th day of July, 1977, she served the within
Notice of Decision by (certified) mail upon Leonard Poltrack

(~~representative of the~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Leonard Poltrack
447 West 22nd Street
New York, NY 10011

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. Leonard Poltrack
447 West 22nd Street
New York, NY 10011

Dear Mr. Poltrack

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 **(a) 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 Chyrywaty
Hearing Examiner

cc: ~~Revised to Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
LEONARD POLTRACK	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1973.	:	

Petitioner, Leonard Poltrack, residing at 447 West 22nd Street, New York, New York 10011, 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 1973 (File No. 15776).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on November 17, 1976 at 2:45 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., (A. Schwartz, Esq., of counsel).

ISSUE

Whether the amount of tax withheld by the petitioner's employer is \$233.90 or \$282.80.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Leonard Poltrack, was employed as a bookkeeper for Inclusive Systems, Inc. for a period of approximately ten months during the year 1973.

2. As a bookkeeper for Inclusive Systems, Inc., the petitioner was in charge of the payroll records and was the individual who issued paychecks to the employees, including himself. Payroll deductions were indicated on the check itself, which became unavailable upon cashing.

3. The wage and tax statement issued for the year 1973 by Inclusive Systems, Inc. indicated that \$233.90 was withheld as New York State income taxes. The petitioner reconstructed the amount withheld by using withholding tax tables and estimated that \$282.80 was actually withheld during 1973.

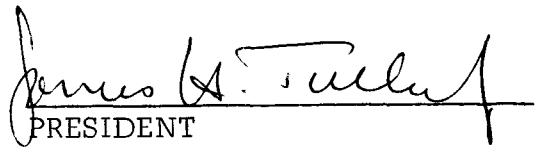
4. Attempts to secure a corrected wage and tax statement, or the employer's payroll records, were unsuccessful. Inclusive Systems, Inc. is no longer in business.

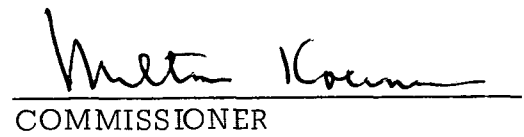
5. That petitioner, Leonard Poltrack, did not sustain the burden of proof to establish that the reconstructed estimates were the actual amounts withheld during 1973 by Inclusive Systems, Inc.

6. That the petition of Leonard Poltrack is denied and the Notice of Tax Due issued October 1, 1974 is sustained.

DATED: Albany, New York
July 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER