

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
HOWARD PORTUGAL

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

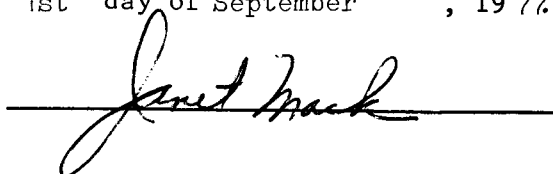
State of New York
County of Albany

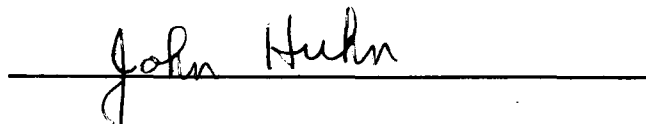
John Huhn , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 1st day of September , 1977 , she served the within
Notice of Decision by (certified) mail upon Howard Portugal
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Howard Portugal
282 Parkway
Harrington, New Jersey 07640
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)~~
~~XXXXXX~~ 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

1st day of September , 19 77.







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

September 1, 1977

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

Howard Portugal
282 Parkway
Harrington, New Jersey 07640

Dear Sir:

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(s) **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 Officer

cc: Petitioner's Representative
~~XXXXXXXXXXXXXXXXXXXX~~
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

of

HOWARD PORTUGAL

for Redetermination of Deficiency or for
Refund of Personal Income Taxes under
Article 22 of the Tax Law for the Year
1971.

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DECISION

Petitioner, Howard Portugal, residing at 282 Parkway,
Harrington, New Jersey 07640, filed a petition for redetermination
of deficiency or for refund of personal income taxes under
Article 22 of the Tax Law for the year 1971. (File No. 12594).

A small claims hearing was held before Harry Huebsch, Hearing
Officer, at the offices of the State Tax Commission, Two World
Trade Center, New York, New York, on April 25, 1977 at 2:45 P.M.
Petitioner appeared pro se. The Income Tax Bureau appeared by
Peter Crotty, Esq. (Irving Atkins, Esq., of counsel).

ISSUE

Was petitioner, Howard Portugal, liable for the penalty
imposed against him in accordance with section 685(g) of the Tax
Law with respect to unpaid New York State withholding taxes due
from Cuttner United Fur Blending Co., Inc., for the year 1971?

FINDINGS OF FACT

1. Cuttner United Fur Blending Co., Inc. failed to pay over to the Income Tax Bureau \$1,059.96 of New York State personal income taxes withheld from its employees for the year 1971.

2. Petitioner, Howard Portugal, was vice-president and a stockholder of Cuttner United Fur Blending Co., Inc. during the year 1971. He had the authority to sign checks and had signed checks in payment of other creditors. The books and records of said corporation were available for his inspection.

CONCLUSIONS OF LAW

A. That the petitioner, Howard Portugal, was a person required to collect, truthfully account for, and pay over New York State withholding taxes due from Cuttner United Fur Blending Co., Inc. for the year 1971 in accordance with the meaning and intent of section 685(n) of the Tax Law and that petitioner willfully failed or caused Cuttner United Fur Blending Co., Inc. to willfully fail to collect, truthfully account for, and pay over New York State withholding taxes due from said corporation for the year 1971. Therefore, a penalty equal to the total amount of unpaid withholding taxes was properly

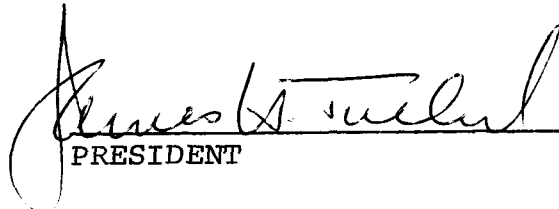
asserted against him in accordance with the meaning and intent of section 685(g) of the Tax Law.


B. That the petition of Howard Portugal is denied and the Notice of Deficiency in the amount of \$1,059.96 issued January 27, 1975 is sustained.

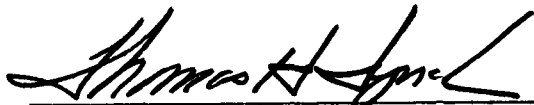
DATED: Albany, New York

STATE TAX COMMISSION

September 1, 1977


PRESIDENT


COMMISSIONER


COMMISSIONER