

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PHILIP SCHAPIRO

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated
Taxes under Article(s) 22 & 23 of the Business
Tax Law for the (Year(s)) 1964

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 14th day of February , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Philip Schapiro

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Philip Schapiro
47-34 Springfield Blvd.
Bayside, New York

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 Post Office Department within the State of New York.

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

14th day of February , 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

February 14, 1973

**Philip Schapiro
47-34 Springfield Blvd.
Bayside, New York**

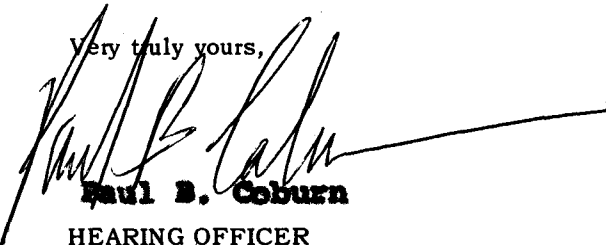
Dear Mr. Schapiro:

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

Please take further notice that pursuant to **sections 690 & 722**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 Months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,



Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
PHILIP SCHAPIRO : DECISION
for Redetermination of Deficiency or for :
Refund of Personal Income and Unincor- :
porated Business Taxes under Articles 22 :
and 23 of the Tax Law for the Year 1964. :
:

Petitioner, Philip Schapiro, has filed a petition for redetermination of deficiency or for refund of personal income tax under Articles 22 and 23 of the Tax Law for the year 1964. (File No. 4-18371351). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on October 17, 1972, at 9:15 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Solomon Sies, Esq., of Counsel).

ISSUES

I. Did petitioner, Philip Schapiro's activities as an artist's agent during the year 1964 constitute the carrying on of an unincorporated business?

II. Did the Income Tax Bureau properly disallow various deductions taken by petitioner, Philip Schapiro, on his 1964 income tax return?

FINDINGS OF FACT

1. Petitioner, Philip Schapiro, and his wife filed a New York State combined income tax return for the year 1964. He did not file a New York State unincorporated business tax return for said year.

2. On January 29, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Philip Schapiro, imposing additional personal income tax for the year in the sum of \$189.26. It also imposed unincorporated business tax for said year in the sum of \$107.88. It further imposed a penalty in the sum of \$26.97 for failure to file a New York State unincorporated business tax return for said year.

3. Petitioner, Philip Schapiro, earned a net income of \$11,108.17 in commissions from his business activities as a musical artist's agent and musical producer during the year 1964. He conducted his business activities from one room which he maintained as an office in his seven-room house.

4. Petitioner, Philip Schapiro, claimed on Schedule "C" of his Federal income tax return for the year 1964 entertainment expenses of \$784.00, salary paid to a domestic of \$780.00, depreciation on two automobiles and a trumpet of \$135.48. These items were disallowed in the Statement of Audit Changes for lack of substantiation. He claimed a depreciation expense of \$232.50 for depreciation of the room used in his home as an office. The Statement of Audit Changes allowed depreciation of 1/7 of the total depreciation for the year or the sum of \$99.64. He further claimed a deduction for 1/4 of light, rent and repairs on his home in the sum of \$550.00. The Statement of Audit Changes disallowed \$450.23 which represented payment of principal on the mortgage and an interest deduction taken on Schedule IV of his Federal income tax return. He also claimed that stock owned by him in Control Electronics Corp.

was worthless and deducted \$167.23. The Statement of Audit Changes held that the stock was not worthless.

5. Petitioner, Philip Schapiro, employed a domestic during the year 1964 to clean his home. She received a salary of \$2,860.00 for the year. One-seventh of her time was devoted to cleaning petitioner, Philip Schapiro's office located in his home.

6. Petitioner, Philip Schapiro, owned 600 shares of stock in Control Electronics Corp. during the year 1964. He had purchased the stock at \$3.00 per share in 1960. The stock was not worthless in 1964. It had a market value of approximately ten cents per share in said year.

7. Petitioner, Philip Schapiro, failed to substantiate that he expended the sum of \$784.00 for entertainment during the year 1964. The charge slips for a portion of the claimed expenses submitted by him did not indicate the nature of the business expenses or the names of the persons entertained.

8. Petitioner, Philip Schapiro, used one room of his seven-room home as an office during the year 1964. The cost basis of his home purchased in 1953 was \$18,600.00. He used a twenty-year straight-line method of depreciation.

9. Petitioner, Philip Schapiro, failed to submit any documentary or other substantial evidence to substantiate claimed depreciation on two automobiles and a trumpet for the year 1964. He failed to submit proof as to the cost of said items, the amount of depreciation taken in prior years and the percentage that they were used for business purposes.

10. Petitioner, Philip Schapiro, included in a claimed deduction for light, heat and repairs, payments of principal on his home mortgage and payments of interest previously deducted in Schedule IV of his Federal income tax return, totaling \$450.23.

CONCLUSIONS OF LAW

A. That petitioner, Philip Schapiro, failed to submit documentary or other sufficient evidence to substantiate claimed deductions for the year 1964 of \$784.00 for entertainment and of \$135.48 for depreciation of two automobiles and a trumpet and therefore these deductions were properly disallowed by the Income Tax Bureau.

B. That petitioner, Philip Schapiro, during the year 1964 incorrectly deducted payments of principal on his home mortgage. He also incorrectly deducted payment of interest twice. These deductions totaling \$450.23 were properly disallowed by the Income Tax Bureau.

C. That petitioner, Philip Schapiro, during the year 1964 incorrectly deducted 1/4 of the yearly depreciation of his home as he used 1/7 and not 1/4 of his home for business purposes. The Income Tax Bureau properly disallowed \$132.86 of the claimed depreciation.

D. That petitioner, Philip Schapiro, incorrectly claimed that stock owned by him in Control Electronics Corp. was worthless, as it had a market value during the year 1964. The deduction was properly disallowed by the Income Tax Bureau.

E. That since the domestic employed by petitioner, Philip Schapiro, during the year 1964 spent 1/7 of her time cleaning his office at home he was entitled to deduct 1/7 of her salary or the sum of \$408.58 as a business expense.

F. That the income received by petitioner, Philip Schapiro, from his activities as an artist's agent during the year 1964 in the sum of \$11,108.17 constituted income received from the carrying on of an unincorporated business in accordance with the meaning and intent of section 703(b) of the Tax Law.

G. That the petition of Philip Schapiro is granted to the extent of reducing additional personal income tax due for the year 1964 from \$189.26 to \$164.75; of reducing unincorporated business tax due for said year from \$107.88 to \$81.74; and of reducing the penalty for failing to file an unincorporated business tax return from \$26.97 to \$20.43; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued January 29, 1968, and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
February 14, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER