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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

THE ESTATES OF GEORGE & EVELYN SCHLESS,  
By BESSIE S. DANA, Administratrix ;

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

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, 1965 & 1966

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 10th day of January , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon The Estates of  
By Bessie S. Dana, George & Evelyn Schless  
Administratrix (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: The Estates of George & Evelyn Schless  
Bessie S. Dana, Administratrix  
c/o Jerome Drazen  
29 Broadway  
New York, New York 11106  
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

10th day of January, 1974.

*George S. Van Patten*

*Martha Funaro*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
THE ESTATES OF GEORGE & EVELYN SCHLESS,  
By BESSIE S. DANA, Administratrix

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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, 1965 & 1966

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 10th day of January, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Irving W. Rosenberg,  
C.P.A.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Irving W. Rosenberg, C.P.A.

I. W. Rosenberg & Co.  
225 West 34th Street  
New York, New York 10001

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

10th day of January, 1974.

George S. Van Patten

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

Mario A. Procaccino,

~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO

COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**January 10, 1974**

**The Estates of George & Evelyn Schloss**

**Bessie S. Dana, Administratrix**

**c/o Jerome Brasen**

**29 Broadway**

**New York, New York 11106**

**Dear Miss Dana:**

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

Please take further notice that pursuant to  
Section(s) **690 & 722** 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.

Any 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.  
These will be referred to the proper party for  
reply.

Very truly yours,

**Nigel G. Wright**

HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
THE ESTATES OF GEORGE and EVELYN SCHLESS, :  
by :  
BESSIE S. DANA, Administratrix : DECISION  
for a Redetermination of a Deficiency :  
or for Refund of Personal Income and :  
Unincorporated Business Taxes under :  
Articles 22 and 23 of the Tax Law for :  
the Years 1964, 1965 and 1966. :

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Bessie S. Dana, as the administratrix of the Estates of George and Evelyn Schless, filed petitions for the redetermination of deficiencies as follows: for 1964, issued on March 25, 1968, against George Schless in the amount of \$781.47 plus \$138.04 interest for a total of \$919.51, less a refund computed to be due to Evelyn Schless of \$392.27 plus \$69.29 interest for a net amount due of \$457.95; for 1965, issued on April 11, 1969, against the Estate of George Schless in the amount of \$1,708.32 plus interest of \$306.52 for a total of \$2,014.84; for 1966, issued on April 11, 1969, against the Estate of George Schless in the amount of \$739.12 plus interest of \$88.27 for a total of \$827.39.

In lieu of a hearing, petitioners have submitted their case to the State Tax Commission on the file of the Income Tax Bureau. The petitioners are represented by Irving W. Rosenberg, C.P.A.

Said file has been duly examined and considered.

ISSUE

The issue in this case relates to the amount of business income received by each of the petitioners.

FINDINGS OF FACT

1. Petitioners resided at 65 East 96th Street, New York City. (They died in a common accident on June 15, 1968.)

2. In 1954, petitioners had filed a certificate to conduct business as partners under the name of Schless & Company at 20 West 55th Street, New York City. The business of the firm was public relations. It filed an unincorporated business tax return in 1964 and 1966 but none for 1965.

3. Mrs. Schless did business as a shoe designer. In 1964, she had no business income. In 1965, she had business income of \$4,747.63 and a salary from Pamo Shoes, Inc. of Bleaker Street, New York City, of \$4,700.00. In 1966, she had business income of \$18,477.89 and a salary of \$5,200.00 from Pamo Shoes, Inc. No returns were filed for unincorporated business tax for the business.

4. Petitioners filed combined New York income tax returns. In 1964, they showed the income from the public relations firm as split evenly between them. In 1964 and 1966, all of such income was allocated to Mr. Schless.

5. The deficiency for 1964 against Mr. Schless is computed by subtracting the business income reported by Mrs. Schless and adding it to the income reported by Mr. Schless. A refund due

resulted for Mrs. Schless but a much larger deficiency resulted for Mr. Schless. This deficiency also includes a correction in the unincorporated business tax which is not contested.

6. The deficiency for 1965 issued against the Estate of George Schless is for unincorporated business tax and includes the income from the public relations business of \$47,960.30 and the income from the shoe design business of \$4,747.63.

7. The deficiency for 1965 issued against the Estate of George Schless is for unincorporated business tax and includes the income of the public relations business of \$29,814.33 and income from the shoe design business of \$18,477.89.

#### CONCLUSIONS OF LAW

The public relations business has not been shown to be a partnership. The 1964 deficiency against George Schless and related refund due to Evelyn Schless is therefore clearly valid.

The public relations business and the shoe design business will be considered as two separate businesses, each of which should file their own unincorporated business tax return. The 1965 income of Mrs. Schless' shoe design business should include the salary income related thereto and therefore amounts to \$9,447.63 with a taxable income of \$2,558.10 and a tax to \$102.32 plus applicable interest and a 25% penalty for failure to file a return of \$25.58.

The 1965 deficiency relating to the public relations business will be reduced to show only the income of that business so that total income is \$47,960.30, taxable income is \$37,960.30 and the tax due is \$1,518.41 plus a 25% penalty for failure to file


a return of \$379.60.

The 1966 income of Mrs. Schless' shoe design business is found to be \$23,677.89 with taxable income of \$13,942.31 and a tax of \$557.69 plus applicable interest and a 25% penalty for failure to file a return of \$139.42.

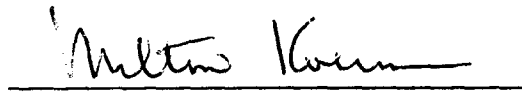
The 1966 business income of the husband is \$29,814.33 and the tax due is \$792.57 as paid with his return. The 1966 deficiency is therefore reduced from \$739.12 plus interest to \$391.29 plus interest and a penalty of \$139.42. The deficiencies as restated above are due together with such further interest as may be computed under section 684 of the Tax Law.

DATED: Albany, New York  
January 10, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER