

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM and DORA HARRIS

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

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(s) 22 and 23 of the  
Tax Law for the Year ~~(s)~~ 1966.

State of New York  
County of Albany

JANET MACK, 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 16th day of December, 1975, she served the within  
Notice of Decision ~~for Determination~~ by (certified) mail upon William and  
Dora Harris ~~(representative of)~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. and Mrs. William Harris  
3965 Sedgwick  
Bronx, 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)~~  
~~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

16th day of December, 1975

Mary Giff

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

\_\_\_\_\_  
In the Matter of the Petition

of

WILLIAM and DORA HARRIS

For a Redetermination of a Deficiency or  
a Refund of Personal Income :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the Year ~~(s)~~ 1966. :

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

State of New York  
County of Albany

JANET MACK , 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 16th day of December , 1976 , she served the within  
Notice of Decision ~~(or Determination)~~ by (certified) mail upon Samuel Bearman, Esq.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Samuel Bearman, Esq.  
253 Broadway  
New York, 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

16th day of December , 1975.

Mary G. Hoff

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM and DORA HARRIS

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(s) 22 & 23 of the  
Tax Law for the Year ~~(x)~~ 1966.

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

State of New York  
County of Albany

JANET MACK, 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 16th day of December, 1975, she served the within  
Notice of Decision ~~(or Determination)~~ by (certified) mail upon Irving Slatky, CPA  
, (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Irving Slatky, CPA  
Gilder and Slatky  
170 Broadway  
New York, 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

16th day of December, 1975.

Mary Troff

Janet Mack

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
WILLIAM and DORA HARRIS	:	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 Year 1966.	:	

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William and Dora Harris, 3980 Hillman Avenue, Bronx, New York 10463, filed a petition for the redetermination of a deficiency in personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law. Such deficiency was asserted by a notice dated July 28, 1969, and is in the amount of \$1,596.07 plus interest of \$218.87 and a penalty for understating estimated taxes under section 655 of the Tax Law in the amount of \$48.45 for a total of \$1,863.37.

A hearing was duly held on August 9, 1974, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer.

The petitioner was represented by Irving Slatky, C.P.A. of Gilder & Slatky, and by Samuel Bearman, Esq. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by James Scott, Esq., of counsel.

The record of said hearing has been duly examined and considered.

#### ISSUE

The issue in this case concerns whether a salary earned by the petitioner, William Harris, should be included, under §703(b) of the Tax Law, in the income of his business as a printing broker.

The part of the deficiency which relates to personal income tax is conceded by the petitioners.

#### FINDINGS OF FACT

1. The petitioner, William Harris, has spent 57 years in the business of printing including lithography, letterpress and off-set printing. He was a printer for about 20 years. In 1938 or 1939 he became a printing "broker". He returned to operating his own print shop but ceased that in 1959 or 1960 and has remained a broker ever since. He presently maintains a place of business at 250 Hudson Street, New York City.

2. The "brokerage" business of William Harris consists of obtaining printing jobs from business and advertising firms. These contracts are obtained in William Harris' own name and at his own risk. He then finds a printer who can do the job most efficiently

and provides the necessary paper. The printers are always in Manhattan or Brooklyn and very often are located in his own building on Hudson Street. William Harris' daughter and son-in-law are employees of his in this business.

William Harris specializes in low volume, high quality promotional material which can include advertising inserts to magazines. These are printed only once and are distributed without cost by William Harris' customers. The printing can be done in common small size "sheet fed" presses.

3. William Harris is considered to be expert in his knowledge of the costs, quality control and methods of production in the printing trade.

4. The petitioner, William Harris, has been employed since before 1960 by Countrywide Publications, Inc. and also by other corporations which are owned by the same individuals as Countrywide and which are in a similar business. In 1966 these related corporations were National Mirror, Inc., Jaguar Publications, Inc. and Tempest Publications, Inc. They were located, during the years in question, at 150 Fifth Avenue, New York City where they maintained their editorial, art and management offices.

These corporations are in the business of publishing magazines. These are distributed through newstands and cover specialized areas such as movies, baseball, dogs, auto racing, hairstyling and comic books. They have about 35 titles at any one time and over 100 titles over the past several years. William Harris works for these corporations about 20 hours each week and must because of the nature of his work, performing his duties at the premises of Countrywide. He appears there when required by the exigences of the business.

All salaries, including that of William Harris are paid by Countrywide Publications, Inc. and then said salaries are apportioned among the related corporations according to the value of the work done on each particular publication.

5. William Harris had become an employee of the Countrywide group after being introduced to Mr. Myran Fass, the key man in the firm. William Harris and his son were each made a director together with Mr. Fass and Mr. Fass' brother.

William Harris' son became a fifty percent stockholder along with Mr. Fass.

William Harris is the top production man for Countrywide publications. He reviews the work of the editorial and art departments, analyzes and criticizes their costs, chooses printers and negotiates all contracts.

6. The salary of William Harris at Countrywide is subject

to withholding for Federal income and social security taxes and New York income taxes. William Harris is covered by workmen's compensation, unemployment insurance, group life insurance and the company's pension plan, in which he has a vested interest. The amount of salary can vary from year to year according to the profitability of the business. This salary amounts to about 70% of William Harris' income.

7. The printing of Countrywide's magazines is done in Texas or St. Louis where the necessary large size, multi-color "Webb" presses can be found and from where nationwide distribution costs are the lowest. These presses because of start up costs cannot economically handle jobs of less than 100,000 copies.

#### CONCLUSIONS OF LAW

The salary received by Mr. Harris is for services sufficiently distinct from the services of his own business so that said salaries are not part of the income of said business.

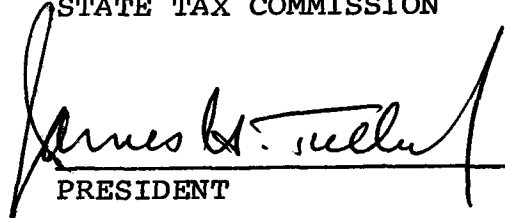
The deficiency with respect to unincorporated business tax is erroneous and is canceled.

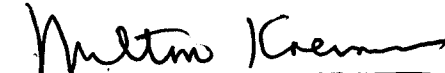


The deficiency with respect to personal income taxes is correct and is due together with such interest as shall be computed under §684 of the Tax Law.

Dated: Albany, New York  
December 16, 1975

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

\_\_\_\_\_  
COMMISSIONER



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

PAUL GREENBERG  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT  
MR. COBURN  
MR. LEISNER  
(518) ~~233-3333~~  
**457-3850**

**DATED:** Albany, New York  
**December 16, 1975**

**Mr. and Mrs. William Harris**  
**3965 Sedgwick**  
**Bronx, New York**

**Dear Mr. and Mrs. Harris:**

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

Please take further notice that pursuant to  
Section(s) **690 and 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

AD-1.12 (8/73)