

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM and EVELYN HARNICK

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income & Unincorporated :
Businesses under Article(s) 22 & 23 of the :
Tax Law for the Year(s) ~~XXXXXX~~ Period(s) :
1969 and 1970

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 15 day of July, 1977, she served the within NOTICE OF DECISION by (certified) mail upon William & Evelyn Harnick (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. William Harnick
1015 Sixth Avenue
New York, New York 10018
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~~ ~~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

15 day of July, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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For a Redetermination of a Deficiency or
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of Personal Income & Unincorporated
Business Taxes under Article(s) 22 & 23 of the
Tax Law for the Year(s) or Period(s)
1969 & 1970

State of New York
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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 15 day of July, 1977, she served the within
NOTICE OF DECISION by (certified) mail upon Nathan H.
Mitchell, CPA (representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Nathan H. Mitchell, CPA
299 Braodway
New York, New York 10017
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
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Janet Mack



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

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

July 15, 1977

Mr. & Mrs. William Harnick
1015 Sixth Avenue
New York, New York 10018

Dear Mr. & Mrs. Harnick:

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 & 722** 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: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
WILLIAM and EVELYN HARNICK	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income and	:	
Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law for	:	
the Years 1969 and 1970.	:	

Petitioners, William and Evelyn Harnick, 1015 Sixth Avenue, New York, New York 10018, have filed a petition for redetermination of deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1969 and 1970. (File No. 01134) 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 November 17, 1976 at 9:15 A.M. Petitioners appeared by Nathan H. Mitchell, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUES

- I. Did petitioner, William Harnick, have unreported additional business income for the taxable years 1969 and 1970?
- II. Did the method of accounting for sales and purchases clearly reflect business income?
- III. Did petitioners, William and Evelyn Harnick, have additional New York taxable income for the taxable years 1969 and 1970?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. An Income Tax Bureau field audit of petitioner, William Harnick's books and records resulted in the following changes:

<u>1969</u>		<u>1970</u>	
Adjustment to Sales	\$394.44	Unexplained Deposits	\$ 2,000.00
Insurance Expense	680.00	Unexplained Excess	10,978.47
Taxes	100.00	Funds	
		Adjustment to Sales	516.05
		Adjustment to Purchases	3,123.08
		Interest Income	450.82
		Insurance Expense	680.00

2. Petitioners, William and Evelyn Harnick, conceded that the Income Tax Bureau adjustments to insurance expense, taxes and interest income were correct.

3. Petitioners, William and Evelyn Harnick, failed to submit any documentary or other substantial evidence to support their contention that unexplained deposits and unexplained excess funds did not result from unreported business income.

4. Petitioner, William Harnick, used an accounting method which resulted in understating sales in 1969 and 1970 and overstating purchases in 1970.

5. That petitioner, William Harnick, had unreported additional business income in the amount of \$12,978.47 in the year 1970.

6. That the method of accounting for sales and purchases during the years 1969 and 1970 did not clearly reflect business income in accordance with the meaning and intent of section 446 of the Internal Revenue Code.

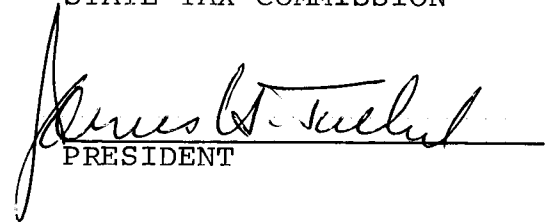
7. That the taxable business income reported on the 1970 New York State unincorporated business tax return of petitioner, William Harnick, was understated by \$17,297.60 and the New York

taxable income reported on the 1970 New York State personal income tax return of petitioners, William and Evelyn Harnick, was understated by \$17,748.42.

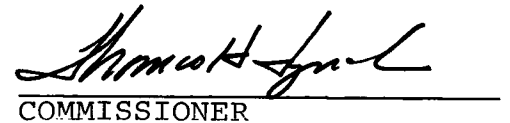
8. That the petition of William and Evelyn Harnick is denied and the notices of deficiency in the amounts of \$1,225.37 and \$3,217.24 issued October 29, 1973 are sustained.

DATED: Albany, New York
July 15, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

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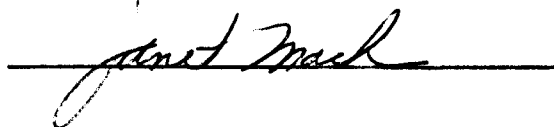
Marsina Donnini, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 11 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Nathan H. Mitchell (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Nathan H. Mitchell
230 Park Avenue
New York, New York 10017
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.

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Sworn to before me this

11 day of August, 1977.


Marsina Donnini


Janet Mack