

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ARON RICHTER

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 ~~(1970 or 1971)~~ 1970.

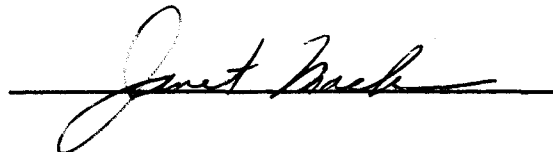
State of New York  
County of Albany

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 29 day of July, 1977, she served the within Notice of Decision by (certified) mail upon Aron Richter ~~XXXXXX~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Aron Richter  
13 Hakongress Street  
Herzlia, Pituah, Isreal  
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

29 day of July, 1977.





STATE OF NEW YORK  
STATE TAX COMMISSION

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of  
ARON RICHTER

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 ~~XXXX Period(s)~~ 1970.:

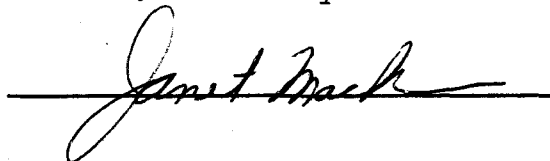
State of New York  
County of Albany

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 29 day of July, 19 77, she served the within Notice of Decision by (certified) mail upon Leon Davis, CPA (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Leon Davis, CPA  
25 West 43rd Street  
New York, New York 10036 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) 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

29 day of July, 1977.







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 29, 1977

**Aron Richter**  
**13 Hakongress Street**  
**Herzlia, Pituah, Israel**

**Dear Mr. Richter:**

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 Examiner**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ARON RICHTER	:	DECISION
for 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 1970.	:	

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Petitioner, Aron Richter, residing at 13 Hakongress Street, Herzlia, Pituah, Israel, 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 year 1970. (File No. 12761).

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 February 24, 1977 at 2:45 P.M. Petitioner appeared by Leon Davis, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Andrew Haber, Esq. of counsel).

ISSUE

I. Was the income derived from petitioner, Aron Richter's activities as a consultant during the year 1970 subject to the unincorporated business tax?

II. Did the aforesaid activities of petitioner, Aron Richter, constitute the practice of a profession?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Income Tax Bureau proposed an adjustment to petitioner, Aron Richter's 1970 New York State income tax liability on the grounds that his activities as a consultant constituted the carrying on of an unincorporated business. It also proposed adjustments to other items to which petitioner agrees and are not at issue.

2. Petitioner, Aron Richter, sold his chemical business corporation prior to 1970. He entered into a contract with the purchaser to perform services as a consultant during the year 1970 for compensation in the amount of \$30,000.00.

3. Petitioner contended that he was an expert chemist and, therefore, he was a professional within the meaning and intent of section 703(c) of the Tax Law. However, petitioner failed to submit any documentary evidence or other substantial evidence to show that his activities as a consultant during the year 1970 constituted the practice of a profession.

4. Petitioner performed a limited amount of services and was paid \$30,000.00 by the purchaser. He reported this income on Federal Schedule C as income from services as a consultant and took business deductions in the amount of \$2,104.00 against the income.

5. Petitioner was not furnished with office space by the purchaser. He did not receive a withholding tax statement. No deductions were made from his compensation. Petitioner did not submit documentary or any substantial evidence that would indicate the nature of the consulting or any other services performed.

6. That petitioner, Aron Richter, was engaged in the carrying on of an unincorporated business during the year 1970 in accordance with the meaning and intent of section 703(a) of the Tax Law and his income therefrom was subject to the unincorporated business tax.

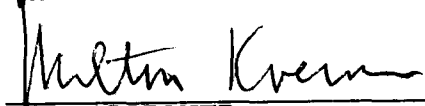
7. That petitioner, Aron Richter, was not engaged in the practice of a profession in accordance with the meaning and intent of section 703(c) of the Tax Law.

8. That the petition of Aron Richter is denied and the Notice of Deficiency in the amount of \$3,132.85 issued October 28, 1974 is sustained together with such additional interest as may be lawfully owing.

DATED: Albany, New York  
July 29, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER