

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of

Chiel & Rachla Rosenblat(deceased) :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income & UBT :
under Article 22 & 23 of the Tax Law
for the Years 1965 through 1971. :

State of New York
County of Albany

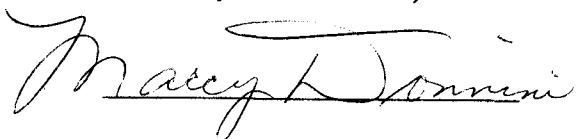
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 19th day of October, 1979, he served the within notice of Decision by certified mail upon Edward Teich the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

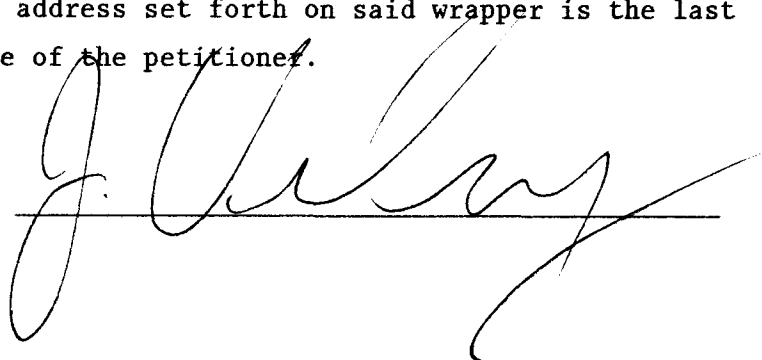
Mr. Edward Teich
101 N. Middletown Rd.
Nanuet, NY 10952

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
19th day of October, 1979.


Nancy L. Donneni


Jay Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
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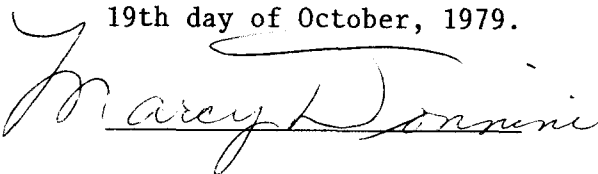
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 19th day of October, 1979, he served the within notice of Decision by certified mail upon Chiel & Rachla Rosenblat(deceased), the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

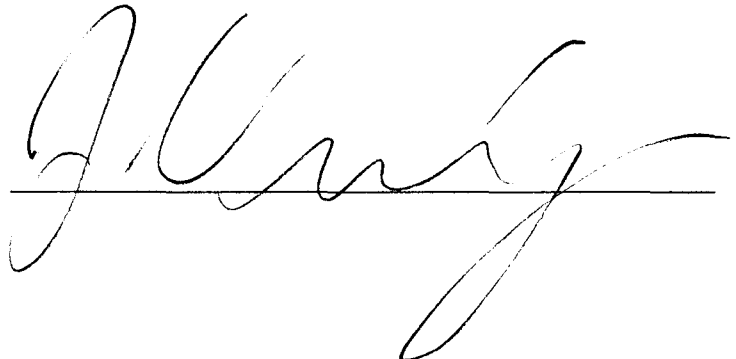
Chiel & Rachla Rosenblat(deceased)
155 Riverside Dr.
New York, NY 10024

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That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
19th day of October, 1979.


Marcy Donnici



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

October 19, 1979

Chiel & Rachla Rosenblat(deceased)
155 Riverside Dr.
New York, NY 10024

To the Executor:

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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Edward Teich
101 N. Middletown Rd.
Nanuet, NY 10952
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
CHIEL ROSENBLAT (DECEASED)	:	DECISION
and	:	
RACHLA ROSENBLAT (DECEASED)	:	
	:	
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 Years 1965 through 1971.	:	

Petitioners, Chiel Rosenblat and Rachla Rosenblat, 155 Riverside Drive, New York, New York 10026, filed a petition 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 years 1965 through 1971 (File No. 16422).

A formal hearing was held before Harvey B. Baum, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 12, 1978 at 9:15 A.M. Petitioners appeared by Edward Teich, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUE

Whether petitioners were liable for unincorporated business taxes on income derived by petitioner Chiel Rosenblat, as fees and commissions for managing real property (multiple dwellings with rental income), which properties were owned by various corporations, of which said petitioner was the sole stockholder, with certain exceptions of preferred stock being owned by the Federal Housing Administration ("FHA"), where the real property was FHA financed.

FINDINGS OF FACT

1. On June 28, 1976, the Income Tax Bureau issued a Statement of Audit Changes, with attachments, to petitioners asserting unincorporated business taxes due for the subject years, in the amount of \$68,521.90, including interest and penalties. Accordingly, a Notice of Deficiency was issued for that amount on June 28, 1976.

2. Petitioners timely filed New York State resident income tax returns and unincorporated business tax returns for the years at issue.

3. Petitioners timely filed a petition seeking redetermination of a deficiency due, which petition was duly executed on September 13, 1976.

4. Petitioner Chiel Rosenblat owned 100% of the stock of various corporations which owned real estate, with the exception of certain properties financed by the FHA, where that Administration held certain preferred stock in a particular corporation. Each corporation owned one or more multiple dwellings which produced income.

5. Petitioner Chiel Rosenblat managed these real estate holdings and collected the rents, paid the expenses, and maintained the dwellings, for which he was paid fees and commissions, based on a percentage of the gross income. He managed these properties through a management company totally owned and controlled by him, namely, the Daniel Service Company, in whose named bank account all of the rental income was deposited (as an integrated account for the real estate holding corporations). These funds were co-mingled and there was extensive borrowing between the funds of income from the various corporations, in order to meet expenses of the diverse properties owned. Petitioner devoted his time and energies fully to managing these properties through the management company, and did not segregate the time devoted to managing these properties.

CONCLUSIONS OF LAW

A. That petitioner Chiel Rosenblat performed services in management of the real properties not owned by him, but owned by corporations, for which he acted as "agent"; thus, petitioner is not within the purview of section 703(e) of the Tax Law.

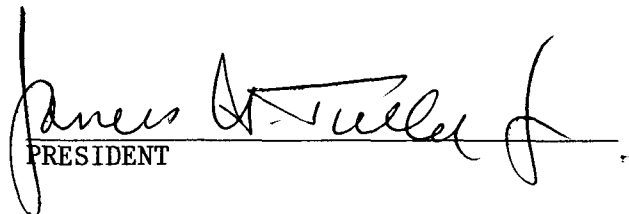
B. That the income derived by petitioner Chiel Rosenblat from these real estate corporations constituted receipts from his regular business as a real estate manager; thus, said income is subject to unincorporated business taxes for the years at issue.

C. That the petition is granted to the extent that all penalties are cancelled, and except as so granted, the petition is denied and the Notice of Deficiency issued June 28, 1976 is sustained.

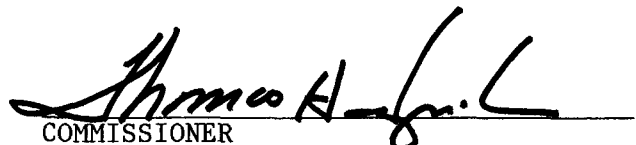
DATED: Albany, New York

OCT 19 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

TO.....Paul. Coburn.....

Please file.

CHIEL & RACHLA ROSENBLAT (DECEASED)
(Representative's copy - Refused
Delivery

October 29, 1979

M-75 (5/76)

From Robert F. Mulligan

TA-26 (4-76) 25M

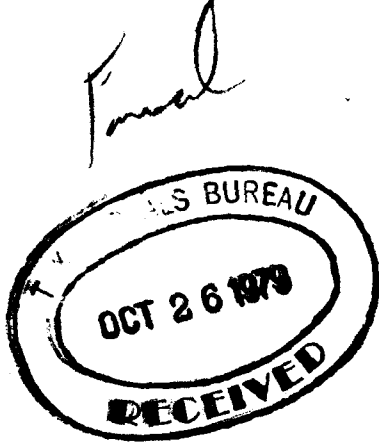
STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

[Handwritten signature]

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 26 1979	
FBI - ALBANY	

FOR THIS RETURN IN THIS OFFICE

Edward Teich
101 N. Middletown Rd.
Nanuet, NY 10952



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

October 19, 1979

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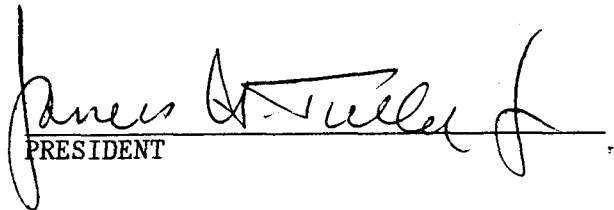
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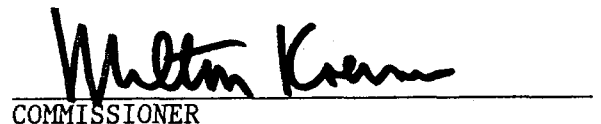
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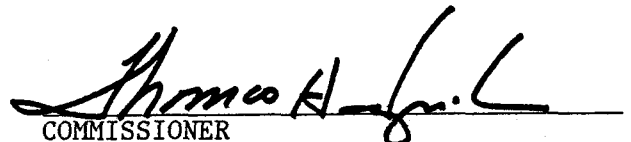
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STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER