

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
Lucille Rivers

:

: AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Personal Income
Tax & UBT under Article 22 & 23 of the Tax Law for :
the Years 1969 & 1970.

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 29th day of January, 1982, he served the within notice of Decision by certified mail upon Lucille Rivers, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

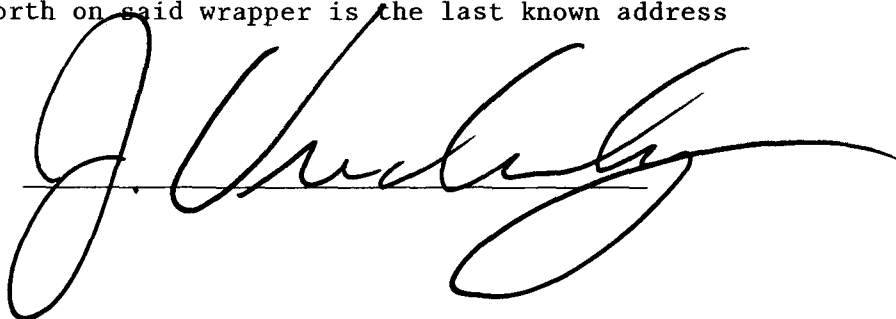
Lucille Rivers
600 W. 111th St.
New York, NY 10025

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
29th day of January, 1982.





STATE OF NEW YORK
STATE TAX COMMISSION

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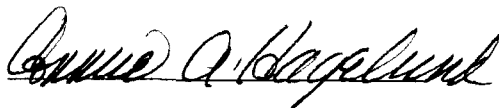
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 29th day of January, 1982, he served the within notice of Decision by certified mail upon Alexander Iannuzzi the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

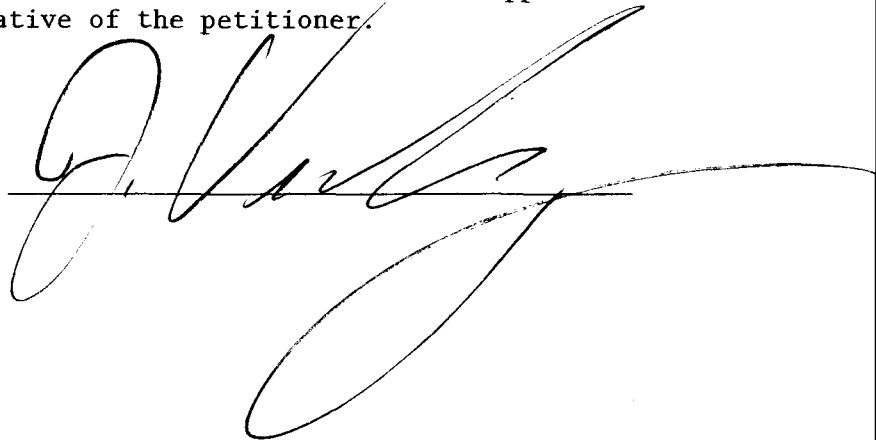
Alexander Iannuzzi
3330 Park Ave.
Wantagh, NY 11793

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
29th day of January, 1982.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Lucille Rivers :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Personal Income
Tax & UBT under Article 22 & 23 of the Tax Law for:
the Years 1969 & 1970.

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 29th day of January, 1982, he served the within notice of Decision by certified mail upon George F. Murphy the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

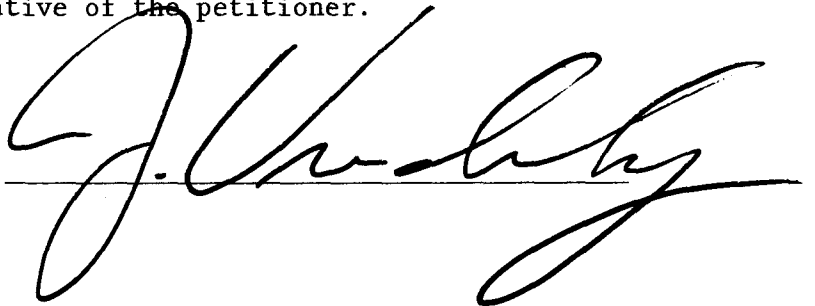
George F. Murphy
64 Metropolitan Oval
Bronx, NY 10462

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
29th day of January, 1982.





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

January 29, 1982

Lucille Rivers
600 W. 111th St.
New York, NY 10025

Dear Ms. Rivers:

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
Alexander Iannuzzi
3330 Park Ave.
Wantagh, NY 11793
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LUCILLE RIVERS	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax and	:	
Unincorporated Business Tax under	:	
Articles 22 and 23 of the Tax Law for	:	
the Years 1969 and 1970.	:	

Petitioner, Lucille Rivers, 600 West 111th Street, New York, New York, filed a petition for redetermination of a deficiency or for refund of personal income tax and unincorporated business tax under Articles 22 and 23 of the Tax Law for the years 1969 and 1970 (File No. 12333).

A formal hearing was held before James T. Prendergast, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 26, 1979. The petitioner appeared by George F. Murphy, Esq. and Alexander Iannuzzi, CPA. The Audit Division appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUES

- I. Whether the petitioner was exempt from unincorporated business tax because she practiced a profession.
- II. Whether the petitioner was not subject to unincorporated business tax because she was an employee.

FINDINGS OF FACT

1. The petitioner, Lucille Rivers, filed timely New York State income tax returns for the calendar years 1969 and 1970. The petitioner did not file unincorporated business tax returns for those years.

2. A Notice of Deficiency and a Statement of Audit Changes were issued against petitioner, Lucille Rivers, for the years 1969 and 1970 for unincorporated business taxes due in the amount of \$10,197.03, including \$8,127.56 in unincorporated business taxes and \$2,069.47 in penalties and interest.

3. The taxpayer subsequently filed a timely petition for revision of these determinations.

4. During the years in question, the petitioner was the foremost teacher of sewing in the United States of America. She brought to this activity ample professional credentials including special education, the authorship of leading publications on the subject, experience at many colleges and universities, and teaching appearances on television.

5. During the years 1969 and 1970 the income in question in this case was earned by petitioner from the practice of a profession.

6. Petitioner showed that certain deductions were made from her income in a manner that is usually part of the employer-employee relationship, but petitioner failed to prove that she was an employee during the years in question.

CONCLUSIONS OF LAW

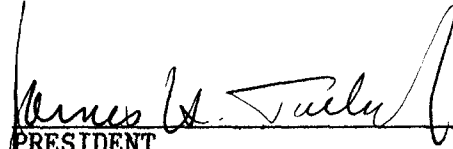
A. Considering all the facts, the petitioner's activities may be considered the practice of a profession within the meaning of the unincorporated business tax law for a variety of reasons. Teaching is such a profession. The regulations and cases are clear that the definition of profession has expanded way beyond the classical learned professions of medicine, law and the ministry. Musicians and artists are included. Petitioner was the best in her field during the years in question. She had studied, and she had practiced, and she had brought

the teaching of sewing to such an art that she was a professional. Therefore, she was not subject to unincorporated business tax. Regulation section 203.11.


DATED: Albany, New York

JAN 29 1982

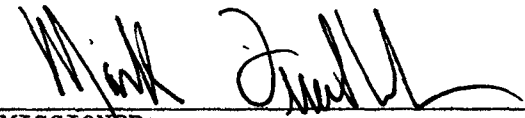
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER