

Unincorp. Bus. Tax Determinations A-Z
BUREAU OF LAW
MEMORANDUM *Olman, Chauncey S.*

TO: Commissioners Murphy, Macduff and Conlon
FROM: Francis V. Dow, Hearing Officer
SUBJECT: In the Matter of the Application of
 Chauncey S. Olman for Revision or
 Refund of Unincorporated Business
 Taxes Under Article 16-A of the Tax
 Law for the Year 1959

See also

*Income Tax Determination
 Olman, Chauncey S.
 (2/20/67 - 3/13/67)*

A hearing with reference to the above matter was scheduled before me at 80 Centre Street, New York, New York on November 19, 1966 and February 7, 1967. The taxpayer is deceased. The attorney for the representative for his estate stated that the estate would be represented at the hearings but there was a default on both occasions.

The taxpayer filed unincorporated business and income tax returns in which he computed his tax liability to be in the sum of \$1,420.86. No tax was paid with the returns.

An assessment of additional tax (Assessment No. B-969215) as adjusted on July 3, 1963 disallowed \$1,500 for bad debts claimed as a deduction in computing the taxpayer's unincorporated business tax on the basis that the loan was not made in connection with his business activities and found total tax, interest and penalties due in the sum of \$1,785.21. Such bad debt was allowed as a personal deduction for normal taxes. The file discloses that the loan was made to a corporation which had no assets upon liquidation. The taxpayer did not offer any explanation as to how the debt was business connected when requested to do so by the Income Tax Bureau.

Bad debts are deductible in computing net income of an unincorporated business only when they are directly connected with the conduct of the unincorporated business (See Sections 360(7) and 386-e of the Tax Law).

For the reasons stated above I recommend that the determination of the State Tax Commission denying the taxpayer's application in the above matter be in the form submitted herewith.

/s/

FRANCIS V. DOW

Hearing Officer

FVD:aw
 Enc. 5-1-67

April 28, 1967

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION

OF

CHANNERY S. CLARK

**FOR REVISION OR REFUND OF UNINCORPORATED
BUSINESS TAXES UNDER ARTICLE 16-A OF THE
TAX LAW FOR THE YEAR 1959**

Channery S. Clark, the taxpayer herein, having filed an application for revision or refund of unincorporated business taxes under Article 16-A of the Tax Law for the year 1959 and hearings having been scheduled in connection therewith at the office of the State Tax Commission, 80 Centre Street, New York, New York, for the 16th day of November, 1966 and the 7th day of February, 1967, and the taxpayer having defaulted in appearance at both scheduled hearings and the matter having been duly reviewed and considered,

The State Tax Commission hereby finds:

(1) The taxpayer filed unincorporated business and personal income tax returns for the year 1959 in which he reported net income from business in the amount of \$12,697.99 and taxable income subject to normal tax in the amount of \$27,477.90; that the taxpayer computed his normal tax in the sum of \$1,137.98 and unincorporated business tax to be in the sum of \$307.86 which totalled \$1,445.84; that no tax was paid by the taxpayer at the time he filed his returns.

(2) That an assessment was issued for the year 1959 (Assessment No. 2-969215) which was adjusted on July 3, 1966 finding the total tax, penalty and interest charges due in the amount of \$1,783.21, on the basis that the taxpayer failed to pay any tax for

the year 1939 and that a bad debt in the amount of \$1,500 could not be claimed as a deduction in computing unincorporated business tax since the loan out of which the bad debt occurred was not made in connection with business activities.

(3) That the deduction taken by the taxpayer for \$1,500 as a bad debt arose as a result of a loan to a corporation which had no assets on its liquidation; that the loan was not made in connection with the taxpayer's business activities.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

SUGGESTIONS:

(A) That the deduction of \$1,500 for bad debts claimed by the taxpayer is disallowed as a business deduction in computing unincorporated business tax since it was not directly connected with the conduct of the taxpayer's unincorporated business as provided by Section 304-c of the Tax Law.

(B) That the notice of assessment of tax, penalty and interest as adjusted on July 3, 1943 (Assessment No. B-96915) was properly and timely issued; that the tax, penalty and interest assessed against the taxpayer for such year were correct; that the said assessment does not include any tax or other charge which could not be lawfully demanded and that the taxpayer's application for revision or refund be and the same is hereby denied.

Dated: Albany, New York on this 25th day of May, 1947.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

/s/

JAMES R. MACDUFF

/s/

WALTER MACLYN CONLON