

STATE OF NEW YORK  
STATE TAX COMMISSION

UBT  
Ash, Charles R.

In the Matter of the Petition

of

CHARLES R. ASH

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business  
Taxes under Article(s) 23 of the  
Tax Law for the (Year(s) 1961, 1962  
and 1963

Lawyer  
cc +  
99-333

State of New York  
County of Albany

Joyce S. Van Patten 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 13th day of July, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Charles R. Ash (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Charles R. Ash  
18 Barclay Road  
Scarsdale, New York

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

13th day of July, 1970.

Frank Wright

Joyce S. Van Patten

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

Charles R. Ash

For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business:  
Taxes under Article(s) 23 of the  
Tax Law for the (Year(s) 1961, 1962 and  
1963

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

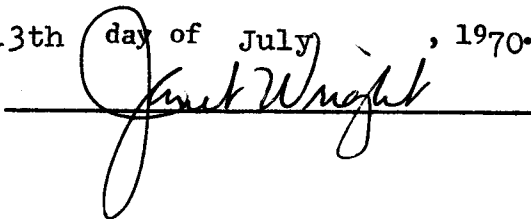
State of New York  
County of Albany

Joyce S. Van Patten, 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 13th day of July, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Anthony R. Ullmann (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Anthony R. Ullman  
Horowitz & Ullmann  
275 Madison Avenue  
New York, New York 10016  
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

13th day of July, 1970.





STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
CHARLES R. ASH	:	DECISION
for a Redetermination of a Deficiency	:	
or for refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the years 1961, 1962 and 1963	:	

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Charles R. Ash petitioned for a redetermination of a deficiency or for a refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1961, 1962 and 1963. A formal hearing was held before Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission in the City of New York on September 29, 1969. The petitioner appeared and testified, and was represented by Anthony R. Ullmann, CPA. The Income Tax Bureau was represented by Edward H. Best, Esq., (Solomon Sies, Esq. of Counsel).

FINDINGS OF FACT

(1) The petitioner did not file unincorporated business tax returns for the years 1961, 1962 and 1963.

(2) On April 11, 1966, the Income Tax Bureau issued a notice of deficiency under file numbered 3-3804971 against the petitioner in the amount of \$1434.38 plus statutory penalties and interest. The deficiency was based on a finding that the income from the business activities of the petitioner was subject to the unincorporated business tax.

(3) A petition for redetermination of the deficiency was timely filed.

(4) The taxpayer was an outside packing and food promotion display material salesman soliciting and placing orders from food concerns, chain drug stores, etc., with Progress Lithographing Corp. of Cincinnati, Ohio and two related corporations, Maggie Mayo Wrappings, Inc. and Lachman-Novasel-Owens Paper Corp. both of New York City, New York. He received a percentage of the total billings as gross commissions.

Withholding tax statements were filed by the New York corporations and payroll deductions were made on the commissions paid to the taxpayer. He maintained his own office at 15 West 44th Street, New York City, New York and listed himself in the Manhattan telephone directory under his own name followed by the word "printer". There was no arrangement as to the division of time that the taxpayer was required to devote to any of his principals. The principals did not exercise any supervision or control over the taxpayer with respect to the manner or means of effecting sales. The taxpayer testified that "I had to develop my own accounts".

(5) The petitioner is not an employee of his principals.

DECISION:

(A) The business activities of the petitioner during the years 1961, 1962 and 1963 constitute the carrying on of an unincorporated business and the income derived therefrom is subject to the unincorporated business tax.

(B) The notice of deficiency is sustained and the petition is denied.

DATED: Albany, New York

STATE TAX COMMISSION

July 7, 1970

*Norman Gallman*  
PRESIDENT

*Grace Manley*  
COMMISSIONER

*William Koehn*  
COMMISSIONER