

STATE OF NEW YORK  
STATE TAX COMMISSION

UBT

Hannan  
1970

In the Matter of the Petition

of

BARBARA HANNAN

For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business:  
Taxes under Article(8) 23 of the  
Tax Law for the (Year(s) 1962 & 1963 :

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

State of New York  
County of Albany

Margaret Wood

, 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 26th day of May , 1970 , she served the within

Notice of Decision (~~on Determination~~) by (certified) mail upon Mrs. Barbara  
Hannan

(~~representative of~~) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mrs. Barbara Hannan  
230 East 48th Street  
Apartment 4F  
New York, New York 10017

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~~  
~~or~~) petitioner herein and that the address set forth on said wrapper is the last  
known address of the (~~representative of~~) petitioner.

Sworn to before me this

26th day of May , 1970

Maria Buckley

Margaret Wood

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BARBARA HANNAN

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

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

State of New York  
County of Albany

Margaret Wood, 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 26th day of May, 1970, she served the within  
Notice of Decision (~~xxx Determination~~) by (certified) mail upon Edmund A.

Koblentz (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Edmund A. Koblentz, Esq.  
90 State Street  
Albany, New York 12207

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

26th day of May, 1970.

Maria Buckley

Margaret Wood

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of

BARBARA HANNAN

for a Redetermination of a Deficiency  
or for Refund of Unincorporated Business  
Taxes under Article 23 of the Tax Law  
for the years 1962 and 1963

DECISION

Barbara Hannan petitioned for a redetermination of a deficiency or for refund of Unincorporated Business Taxes under Article 23 of the Tax Law for the years 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 Albany on December 17, 1969. The petitioner appeared through Koblenz & Koblenz, Esqs., (Edmund A. Koblenz, Esq., of counsel), and the Income Tax Bureau was represented by Edward H. Best, Esq., (Solomon Sies, Esq. of counsel).

FINDINGS OF FACT:

1. The petitioner, Barbara Hannan, did not file Unincorporated Business Tax returns for the years 1962 and 1963.

2. On May 2, 1966, a notice of deficiency was issued by the Income Tax Bureau under file numbered 3-7798310 for the years 1962 and 1963. The deficiency was based on a finding that the business activities of the petitioner constituted the carrying on of an unincorporated business and the resulting income was subject to the unincorporated business tax.

3. The petition, timely filed, states that the petitioner is engaged in the practice of a profession and her activities do not constitute the carrying on of an unincorporated business.

4. During the years 1962 and 1963, the petitioner was a free lance commercial model. The petitioner was under contract with a corporate model agency. The agency would obtain modeling employment for which the petitioner would pay them a commission of ten percent of the gross monies received from these assignments. The modeling

services covered by the contract were in live fashion shows, photography, advertising and product endorsement.

The petitioner's earnings from specified television appearances where an employer-employee relationship existed were not in issue.

The petitioner excels in her particular field of work by reason of years of disciplined training and experience in addition to her natural grace and appearance.

5. The petitioner is not engaged in the practice of a profession within the meaning and intent of Article 23 of the Tax Law.

DECISION:

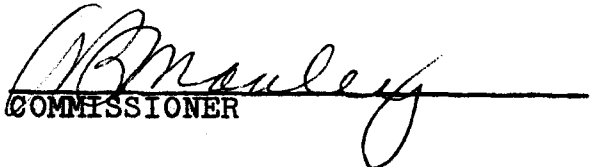
A. The business activities of the petitioner during the years 1962 and 1963 constitute the carrying on of an unincorporated business and the income derived therefrom is subject to the unincorporated business tax.

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

DATED: Albany, New York  
May 25, 1970

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

Q.B.T.

January 26, 1971

Edmund A. Koblenz, Esq.  
Koblenz and Koblenz  
90 State Street  
Albany, New York 12207

Dear Ed:

Re: Petition of Barbara Hannan

This is in reply to your letter of January 18, 1971, in which you ask in what way the Bianchi situation differs from the Hannan case so as to justify a difference in liability for the unincorporated business tax.

Insofar as I know, there may be no difference in fact between these cases. It would seem that one of our examiners made an error in his treatment of the Bianchi case.

Certainly in taxation, it is the essence of fairness to treat all equally, but the Tax Commission cannot be boxed in to an erroneous position because of misunderstandings at the audit level in one or two cases. Just as the Commission is not bound to hold against the taxpayer because of an action of one of the examiners, it is not bound to hold for the taxpayer either.

Edmund A. Koblenz, Esq.

-2-

January 26, 1971

The Hannan decision is the opinion and rule of the Tax Commission and should be followed in all future cases by the Income Tax Bureau.

Kindest personal regards,

Sincerely,

EDWARD ROOK  
Secretary to the  
State Tax Commission

Edmund A. Koblenz, Esq.

-2-

January 24, 1971

The Hansen decision is the opinion and rule of the  
Tax Commission and should be followed in all future cases  
by the Income Tax Bureau.

Kindest personal regards,

Sincerely,

EDWARD ROSE  
Secretary to the  
State Tax Commission

January 20, 1931

-2-

Edward A. Tamm, Esq.

The Tax Court decision in the opinion of the  
tax commission and should be followed in all future cases  
by the Federal Tax Bureau.

Very respectfully,  
Sincerely,  
Sincerely,  
Sincerely,

EDWARD A. TAMM

Secretary to the  
Federal Tax Commission



LAW OFFICES  
KOBLENZ AND KOBLENZ  
90 STATE STREET  
1105-1106 NATIONAL SAVINGS BANK BUILDING  
ALBANY, NEW YORK 12207

EDMUND A. KOBLENZ  
A. ABBA KOBLENZ

January 18, 1971

AREA CODE 518  
462-4242 462-4243

State of New York Dept. of  
Taxation and Finance  
Executive Bureau  
Tax and Finance Building  
State Campus  
Albany, New York 12226

Re: Petition of Barbara Hannan

Attention: Edward Rook, Secretary of the State  
Tax Commission

Dear Mr. Rook:

I acknowledge with thanks your letter of December 28, 1970, and appreciate the fact that the decision on the Barbara Hannan petition represents the policy of the Commission on that type of case.

Accordingly, I would appreciate it very much if you would advise me as to where the Iris Bianchi situation differs from the Barbara Hannan situation so as to relieve Miss Bianchi, or Mrs. Orey, as she is also known, from liability for unincorporated business tax.

The same accountant serves both taxpayers, and it is my information that in so far as modelling is concerned, the work of Barbara Hannan and that of Miss Bianchi are identical.

I am appreciative of your help herein.

Yours very truly,

KOBLENZ and KOBLENZ

By:

Edmund A. Koblenz

EAK:ccg

*Hannan's Case*

*V.B.T.*

December 28, 1970

Edmund A. Koblenz, Esq.  
90 State Street  
Albany, New York 12207

Re: Petition of Barbara Hannan

Dear Mr. Koblenz:

Mr. William Bartelt referred your letter of December 18, 1970, to me for reply.

The decision in the matter of the petition of Barbara Hannan represents the stated policy of the Tax Commission in cases when the facts are identical to those of Miss Hannan.

Sincerely yours,

Edward Rook  
Secretary to the  
State Tax Commission

cc: William H. Bartelt  
Mr. James Scott

December 19, 1951

Edward J. Tamm  
U.S. District Court  
New York, New York

Dear Mr. Tamm:

Enclosed for you are

two copies of the letterhead memorandum dated December 19, 1951, to me from Mr. [redacted] of the Federal Bureau of Investigation.

The letterhead memorandum is being forwarded to you for your information and for your consideration. The letterhead memorandum is being forwarded to you for your information and for your consideration. The letterhead memorandum is being forwarded to you for your information and for your consideration.

Sincerely yours,

John Edgar Hoover  
Director

cc: William H. Barker


cc: James E. [redacted]

**MEMORANDUM**

**TO :** Mr. Rook  
**FROM :** William H. Bartelt  
**SUBJECT:** "In the Matter of the Petition of BARBARA HANNAN"

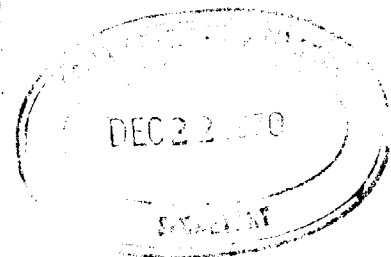
The attached letter is from Koblenz and  
Koblenz, Esqs. The File Number as of  
1965 is 3-7798 310.

I would appreciate your acknowledging this  
for me as it is my understanding that you  
have the answers to his query.

  
WILLIAM H. BARTELT  
Executive Assistant  
to the Commissioner

Att.

December 22, 1970



LAW OFFICES

KOBLENZ AND KOBLENZ

90 STATE STREET

1105-1106 NATIONAL SAVINGS BANK BUILDING

ALBANY, NEW YORK 12207

EDMUND A. KOBLENZ  
A. ABBA KOBLENZ

AREA CODE 518  
462-4242 462-4243

. December 18, 1970

William H. Bartelt  
Executive Assistant to Commissioner  
Department of Taxation and Finance  
Executive Bureau  
Tax and Finance Building  
The State Campus  
Albany, New York 12226

Dear Bill:

The matter of which I talked to you is entitled  
"In the Matter of the Petition of BARBARA HANNAN". I  
represented Miss Hannan and it was found that Miss  
Hannan was subject to unincorporated business tax.

On what I am assured by the account involved, is  
an identical set of facts for Iris Bianchi, who is a  
comparably situated model who I believe, filed her tax  
return as Mrs. Ed Orey of Orey Road, Lake Charles,  
Louisiana, was held by your New York Office just this  
past November, not to be subject to the unincorporated  
business tax.

Accordingly, I would appreciate it very much if  
you could determine for me whether or not the Department  
will reconsider the Hannan case with a view towards  
achieving equal justice.

Yours very truly,

KOBLENZ and KOBLENZ

By:   
Edmund A. Koblenz

EAK:ccg