

STATE OF NEW YORK  
STATE TAX COMMISSION

Kornzweig, Seig  
UBT  
1970

In the Matter of the Petition

of

Benjamin Kornzweig

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) 1960, 1961 & :  
1962

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

State of New York  
County of Albany

Claire A. Draves , 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 30th day of November , 19 70, she served the within  
Notice of Decision (or Determination) by (certified) mail upon David S.

Brenner, CPA (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: David S. Brenner, CPA  
c/o Brenner General, Ltd.  
435 Lexington Avenue  
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  
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

30th day of November , 1970.

Paul Wright

Claire A. Draves

STATE OF NEW YORK  
STATE TAX COMMISSION

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Kornzweig (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

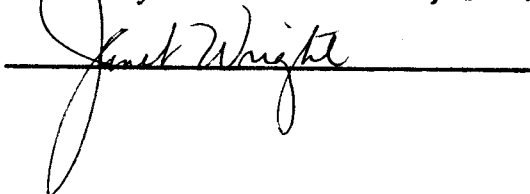
wrapper addressed as follows: Benjamin Kornzweig  
1035 Grand Concourse  
Bronx, New York

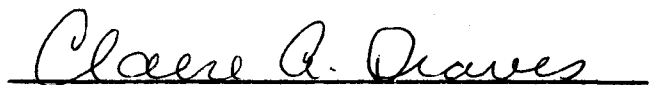
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Sworn to before me this

30th day of November , 1970.





NOTE:

THERE MIGHT BE AN ERROR IN THE DATE. .  
INSTEAD OF SEPTEMBER 11, 1961, IT MIGHT  
BE 1969 .

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
BENJAMIN KORNZWEIG	:	DECISION
for Redetermination of deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the years 1960, 1961 and 1962	:	

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Taxpayer petitioned for redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1960, 1961 and 1962. A formal hearing was held before Francis X. Boylan, Hearing Officer, in the offices of the State Tax Commission, in the City of New York on September 11, 1961. The taxpayer was represented by David Zand, CPA and the Income Tax Bureau was represented by Edward H. Best, Esq. (Albert J. Rossi, Esq., of counsel).

FINDINGS OF FACT

1. The issue in this case is whether the activities of the taxpayer as a press agent constitute the carrying on of an unincorporated business, thereby subjecting the net income from such activities to unincorporated business tax.

2. Taxpayer was responsible for providing publicity and advertising for theatrical productions. In this capacity he worked for several producers (up to six) of various theatrical productions at the same time.

3. Taxpayer was a union member. By union agreement the taxpayer was to be considered an employee of the producer. Although the taxpayer is a union member, he handled jobs outside the jurisdiction of the union. The fees paid by producers for such jobs were determined by the taxpayer. The taxpayer was paid by the producers on a weekly basis and unemployment and social security taxes were withheld.

4. Taxpayer maintained his own office, hired secretarial help and paid fees to other press agents for their assistance out of pocket. Taxpayer's returns reflect expenses for telephone, stationery, postage, answering service and office rent.

5. The taxpayer's principals did not exercise a degree of direction and control over the activities of the taxpayer consistent with an employer-employee relationship.

6. A notice of deficiency for the year 1960 was issued April 13, 1964, in the amount of \$259.89 plus interest; for the year 1961 on January 4, 1965, in the amount of \$63.60 plus interest; for the year 1962 on July 6, 1964, in the amount of \$187.50 plus interest. Each deficiency was based upon a determination that the activities of the taxpayer constituted the carrying on of an unincorporated business, the income of which was subject to unincorporated business tax.

7. Taxpayer filed a petition for redetermination of deficiency for the years 1960 and 1961 on February 17, 1965, and for the year 1962 on July 24, 1964.

DECISION

A. The petition for redetermination of deficiency for the year 1960 was untimely filed.

B. Taxpayer's activities as press agent for the years in question constituted the carrying on of an unincorporated business.

C. The notices of deficiency are sustained and the petitions are denied.

DATED: Albany, New York

*November 27, 1970*

STATE TAX COMMISSION

*Norman Kellman*  
COMMISSIONER

*Bruce Bradley*  
COMMISSIONER

*William Koenig*  
COMMISSIONER