

STATE OF NEW YORK
STATE TAX COMMISSION

Kornzweig
UBT
1970

In the Matter of the Petition

of
Benjamin Kornzweig

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) 16 A of the
Tax Law for the (Year(s) 1957 & 1959 :

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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 , 1970 , 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

James Wright

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

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) 16 A of the
Tax Law for the (Year(s) 1957 & 1959 :

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 , 1970 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Benjamin

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

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 , 19 70

James Wright

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
of :
BENJAMIN KORNZWEIG : DETERMINATION
for Revision or Refund of Unincorporated :
Business Taxes under Article 16A of the :
Tax Law for the years 1957 and 1959 :

The taxpayer applied for revision of unincorporated business taxes under Article 16A of the Tax Law for the years 1957 and 1959. 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, 1969. 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. Notice of additional assessment #005440 was issued April 4, 1962, for the year 1957 in the amount of \$85.71 and notice of additional assessment #049142 was issued April 10, 1963 in the amount of \$323.05. Both assessments were 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.

DETERMINATION

A. Taxpayer's activities as a press agent constituted the carrying on of an unincorporated business.

B. The assessments for the years in question are correct and the applications are denied.

DATED: Albany, New York
November 27, 1970

STATE TAX COMMISSION

Norman Goldman

COMMISSIONER

Bruce Masling

COMMISSIONER

Milton Koerner

COMMISSIONER