

STATE OF NEW YORK
STATE TAX COMMISSION

Gottlieb, Philip R.
W.T. C. 23

In the Matter of the Petition

of

PHILIP R. GOTTLIEB

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) 1963, 1964 & 1965

State of New York
County of Albany

Martha Funaro , 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 25th day of August , 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon Philip R.

Gottlieb (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Philip R. Gottlieb
150 East 69th Street
New York, 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

25th day of August , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PHILIP R. GOTTLIEB

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) 1963, 1964 & 1965

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

State of New York
County of Albany

Martha Funaro , 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 25th day of August , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Seymour
Smallberg, C.P.A. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Seymour Smallberg, C.P.A.
257 W. 86 Street
New York, 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

25th day of August , 1971

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
PHILIP R. GOTTLIEB	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1963, 1964 and 1965.	:	

Petitioner, Philip R. Gottlieb, has filed a petition for re-determination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1963, 1964 and 1965. (File No. 32518573). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on February 25, 1971, at 10:45 A.M. Petitioner appeared by Seymour Smallberg, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq. (Albert Rossi, Esq. of Counsel).

FINDINGS OF FACT

1. Petitioner, Philip R. Gottlieb, filed New York State unincorporated business tax returns for the years 1963, 1964 and 1965. He reported as net income from business the net income received from his coin operated laundry machine business, but omitted from net income from business the salaries or distributions received from various corporations and partnerships.
2. On April 10, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Philip R. Gottlieb, imposing unincorporated business tax upon the salary and partnership income received by him during the years 1963, 1964 and 1965, upon the grounds that said income was business connected and represented additional receipts of his sole proprietorship and accordingly issued a Notice of Deficiency in the sum of \$2,640.46.

3. During the years 1963, 1964 and 1965, petitioner, Philip R. Gottlieb, was the sole proprietor of a coin operated laundry machine business.

4. During the years 1963, 1964 and 1965, petitioner, Philip R. Gottlieb, was also an officer and substantial stockholder or partner in seven firms engaged in the coin operated laundry machine business. He received a salary from Phildan Machines, Inc. of \$13,000.00 in 1963, and \$9,750.00 in 1964. He received a salary from Two Way Enterprises, Inc. of \$3,250.00 in 1964, and \$13,000.00 in 1965. He received a salary from P.R.G. Service Co., Inc. of \$500.00 in 1964, and \$8,200.00 in 1965. He received a salary from Bonita Appliances, Inc. of \$2,400.00 in 1965. Federal and New York State income taxes were withheld from the salary paid to him. He reflected this income as wages on his New York State income tax returns. He received partnership distributions of \$3,524.16 in 1963, \$6,900.99 in 1964, and \$6,640.84 in 1965.

5. All of the firms, with the exception of P.R.G. Service Co., Inc., owned coin operated laundry machines consisting of washing machines, dryers and extractors which were installed in apartment houses and housing projects pursuant to leases between the firms and the landlords of the buildings. P.R.G. Service Co., Inc. serviced the laundry machines for all of the firms. They paid a service charge based on a per-machine basis to P.R.G. Service Corp. P.R.G. Service Corp. paid for all parts and expenses connected with servicing the equipment. The offices of all of the firms were located at 13-01 37th Avenue, Long Island City, New York. All office employees and servicemen were employees of P.R.G. Service Corp. Most of the firms were listed in the telephone book under the same telephone number. Each of the firms had their own bank accounts and books and records. The same accountant was employed by all the firms.

6. During the years 1963, 1964 and 1965, petitioner, Philip R. Gottlieb was the chief operating officer of the aforesaid firms. He did not have any written employment contracts. His activities on behalf of all of the firms was identical. He was not reimbursed for his expenses by any of the firms. He devoted his full working day to the business activities of the various firms, but there was no specific division of his time between them.

CONCLUSIONS OF LAW

A. That the services rendered by petitioner, Philip R. Gottlieb, during the years 1963, 1964 and 1965 as an officer of the various corporations and partnerships engaged in the coin operated laundry machine business were so integrated and interrelated with the activities of his unincorporated business as to constitute part of a business regularly carried on by him and, therefore, the salary and distributions received by him for services as an officer of said firms were not exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That the aforesaid activities of petitioner, Philip R. Gottlieb, during the years 1963, 1964 and 1965, constituted the carrying on of an unincorporated business and his income derived therefrom was subject to unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

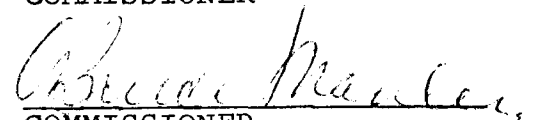
C. That the petition of Philip R. Gottlieb is denied and the Notice of Deficiency issued April 10, 1967, is sustained.

DATED: Albany, New York

August 25, 1971.

STATE TAX COMMISSION


COMMISSIONER


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COMMISSIONER