

STATE OF NEW YORK  
STATE TAX COMMISSION

*Hollis, Howard C.,  
D.B. T. Article 23  
1971*

In the Matter of the Petition

of

Howard C. Hollis

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) 1962 & 1963 :

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 26th day of February , 1971 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Howard C.  
Hollis (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Howard C. Hollis  
923 Fifth Avenue  
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

26th day of February , 1971

Linda Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

Howard C. Hollis

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) 1962 & 1963;

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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 26th day of February , 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon Mortimer Lipsky, 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: Mortimer Lipsky  
c/o Michael Schimmel & Company  
516 Fifth Avenue  
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

26th day of February , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
HOWARD C. HOLLIS	:	DECISION
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	:	

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The taxpayer has 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 Francis X. Boylan, Hearing Officer, in the offices of the State Tax Commission in the City of New York on May 12, 1969. The petitioner appeared on his own behalf and was represented by Mortimer Lipsky, CPA. The Income Tax Bureau was represented by Edward H. Best, Esq. (Solomon Sies, Esq., of counsel).

FINDINGS OF FACT

1. The issue in the case is whether the salaried activities of the taxpayer as an "art dealer" for multiple employers constitutes additional receipts of his regular business as an "art dealer", thereby subjecting the taxpayer's salary to unincorporated business tax.

2. The taxpayer was engaged in his individual business as an art dealer, buying and selling oriental art objects. Taxpayer was also an officer of two other corporations; Hollis, Inc. and Hollis and Mayuyama. Both of these companies were engaged in business as art dealers, buying and selling oriental art objects.

3. The taxpayer filed unincorporated business tax returns for the years 1962 and 1963, in which he reported his income from his individual business as an art dealer.

4. The taxpayer filed personal income tax returns for the years in question, reporting salary income as follows:

	<u>1962</u>	<u>1963</u>
HOLLIS, Inc.	\$ 6,625.00	\$ 7,312.50
HOLLIS & MAYUYAMA, Inc.	<u>2,400.00</u>	<u>29,450.00</u>
TOTALS	\$ <u>9,025.00</u>	\$ <u>36,762.50</u>

5. Taxpayer sold art objects of the corporations and of his individual business to the same clientele.

6. The corporations did not exercise any control over the taxpayer with respect to the manner or means employed by him with regard to the purchase and sale of their art objects.

7. In his individual proprietorship, the taxpayer shared an employee of the two corporations to assist him in his individual business.

8. On January 17, 1966, the Income Tax Bureau issued a notice of deficiency against the taxpayer in the amount of \$1963.99 for the years 1962 and 1963, holding that the salaried income was connected with the taxpayer's individual business activities and was therefore subject to unincorporated business tax.

. DECISION .

A. The services provided by the taxpayer to the corporation constituted part of the business regularly carried on by the taxpayer, and the compensation received for those services is subject to the unincorporated business tax.

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

DATED: Albany, New York

*February 26, 1971*

STATE TAX COMMISSION

*Norman Gellman*  
COMMISSIONER

*William H. Hickey*  
COMMISSIONER

*William Hickey*  
COMMISSIONER