

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

NICK CALABRESE

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) 1955 & 1956 :

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 21st day of August , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Nick Calabrese

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Nick Calabrese
55 Walter Avenue
Hasbrouck Heights, New Jersey

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

21st day of August , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

NICK CALABRESE

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) 1955 & 1956 :

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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 19th day of July , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon Nick Calabrese

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

wrapper addressed as follows: Nick Calabrese
162-01 Powells Cove Blvd.
Beechhurst, 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

19th day of July , 1972.

Joyce S. Van Patten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
NICK CALABRESE

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) 1955 & 1956 :

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 19th day of July, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Joseph Arcoleo, 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: Joseph Arcoleo, C.P.A.
170 Broadway
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

19th day of July, 1972.

Jay S. Van Patten

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

July 19, 1972

Nick Calabrese
162-01 Fowells Cove Blvd.
Beechhurst, New York

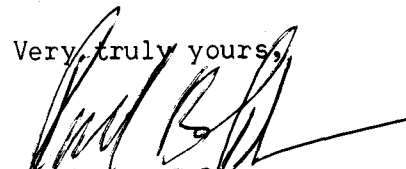
Dear Mr. Calabrese:

Please take notice of the **DETERMINATION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to section(s)
386j of the Tax Law any proceeding
in court to review an adverse decision must be commenced
within **90 Days** after the date of this notice.

Any inquiries concerning the computation of tax due or
refund allowed in accordance with this decision or
concerning any other matter relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,


Paul B. Coburn
Hearing Officer

cc Petitioner's Representative
Law Bureau

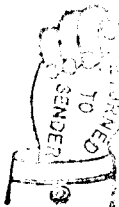
STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227

131-14-5383



Nick Calabrese

162-01 ~~Powells Cove Blvd.~~

Beechhurst, New York

55 WALTER AVENUE
HASBROCK HEIGHTS, N.Y.

☒ Moved to new address
☐ No longer in business
☐ No longer in country

Handwritten signature and date: 10/1/71

177
1221
Alt # 9



MEMORANDUM

DATE:

8/3/72

TO: Mr. Louis Etlinger
Attention Mr. Floyd Worden
Income Tax Bureau
Room 104, Building #8

FROM: Paul B. Coburn, Hearing Officer
Hearing Unit
Room 214a, Building #9

RE: NICK CALABRESE

SOCIAL SECURITY NO.:

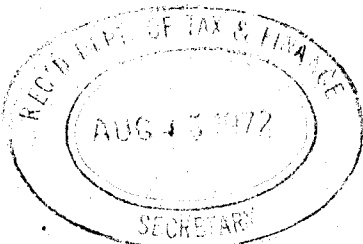
131-14-5383

Please advise as to the last known address for the
above named taxpayer.


Paul B. Coburn

Taxpayer's last known address is:

June 1971, return
55 WALTER AVENUE
HASBROUCK HEIGHTS, N. J.



STATE TAX COMMISSION

Applicant, Nick Calabrese, has filed applications for revision or refund of unincorporated business tax under Article 16-A of the Tax Law for the years 1955 and 1956. A formal hearing was held before Vincent P. Molineaux, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on September 23, 1964, at 9:00 A.M. Applicant appeared by Joseph Arcoleo, C.P.A.

I. Did applicant, Nick Calabrese, prove that a portion of his business income for the years 1955 and 1956 was derived from noncommercial art activities?

FINDINGS OF FACT

1. Applicant, Nick Calabrese, filed New York State unincorporated business tax returns for the years 1955 and 1956. He listed his "kind of business" as "commercial artist" on his 1955 return and as "artist" on his 1956 return.

2. On April 15, 1967, applicant, Nick Calabrese, filed applications for refund of unincorporated business tax paid for the years 1955 and 1956.

3. On January 3, 1958, the Income Tax Bureau denied applicant, Nick Calabrese's application for refund for the year 1955. On May 20, 1959, it denied his application for refund for the year 1956.

4. During the years 1955 and 1956 applicant, Nick Calabrese's business income was derived from his activities as a commercial artist. His artistic activities consisted of producing illustrations for advertising purposes. He was generally retained by advertising agencies.

5. Applicant, Nick Calabrese, contended that a portion of his income during the years 1955 and 1956 was derived from noncommercial art work. However, he failed to submit any documentary or other substantial evidence to substantiate his contention or to show what percentage was derived from noncommercial sources.

6. Applicant, Nick Calabrese, attended Pratt Institute of Applied and Fine Arts where he completed a three year course in advertising design in 1942. He also attended the Art Students League and the Workshop School of Art. He is a member of the Society of Illustrators,

7. During the years 1955 and 1956 over 80% of applicant, Nick Calabrese's income as a commercial artist was derived from personal services rendered. Capital was not a material income producing factor.

CONCLUSIONS OF LAW

A. That applicant, Nick Calabrese, failed to substantiate his contention that a portion of his income during the years 1955 and 1956 was derived from noncommercial art work since he failed to submit any documentary or other sufficient evidence to support his contention.

B. That the activities of applicant, Nick Calabrese, as a commercial artist during the years 1955 and 1956, although requiring special knowledge and experience, did not constitute the practice of a profession exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 386 of the Tax Law.

C. That the aforesaid activities of applicant, Nick Calabrese, during the years 1955 and 1956 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 386 of the Tax Law.

D. That the applicant, Nick Calabrese's applications for refunds of unincorporated business tax for the years 1955 and 1956 are denied.

DATED: Albany, New York

July 19, 1972

STATE TAX COMMISSION

Norman Gullman

COMMISSIONER

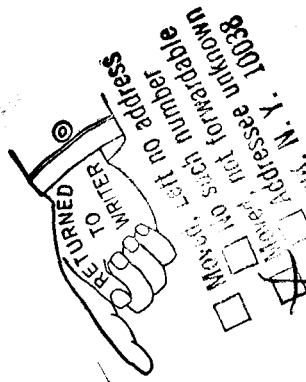
Bruce Mauley

COMMISSIONER

Milton Koenig

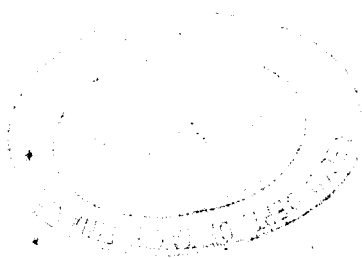
COMMISSIONER

STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12227



Joseph Arcoleo, C.P.A.
170 Broadway
New York, New York

Att. Paul Arcoleo.





STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

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BUILDING 9, ROOM 214A

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STATE TAX COMMISSION
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EDWARD ROOK
SECRETARY TO
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ADDRESS YOUR REPLY TO

Dated: Albany, New York

July 19, 1972

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the State Tax Commission enclosed herewith.

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addressed to the undersigned. These will be referred
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Very truly yours,

Paul B. Coburn

Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Applications	:	
of	:	
NICK CALABRESE	:	DETERMINATION
for Revision or Refund of Unincorporated	:	
Business Tax under Article 16-A of the	:	
Tax Law for the Years 1955 and 1956.	:	

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ISSUE

I. Did applicant, Nick Calabrese, prove that a portion of his business income for the years 1955 and 1956 was derived from noncommercial art activities?

II. Did petitioner, Nick Calabrese's activities as a commercial artist during the years 1955 and 1956 constitute the practice of a profession?

FINDINGS OF FACT

1. Applicant, Nick Calabrese, filed New York State unincorporated business tax returns for the years 1955 and 1956. He listed his "kind of business" as "commercial artist" on his 1955 return and as "artist" on his 1956 return.

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CONCLUSIONS OF LAW

A. That applicant, Nick Calabrese, failed to substantiate his contention that a portion of his income during the years 1955 and 1956 was derived from noncommercial art work since he failed to submit any documentary or other sufficient evidence to support his contention.

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C. That the aforesaid activities of applicant, Nick Calabrese, during the years 1955 and 1956 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 386 of the Tax Law.

D. That the applicant, Nick Calabrese's applications for refunds of unincorporated business tax for the years 1955 and 1956 are denied.

DATED: Albany, New York

July 19, 1972

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