

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE J. CHIHA AND MARGARET CHIHA

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

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

State of New York
County of Albany

Lynn Wilson , 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 10th day of May , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon GEORGE J. CHIHA AND
MARGARET CHIHA (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: George J. and Margaret Chiha
201 LaSalle 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

10th day of May , 1972.

Rae Zimmerman

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE J. CHIHA AND MARGARET CHIHA

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a Refund of Unincorporated Business:
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Tax Law for the (Year(s) 1962

AFFIDAVIT OF MAILING
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State of New York
County of Albany

Lynn Wilson, 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 10th day of May, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon JAMES A. LEMBO, 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: James A. Lembo, C.P.A.
210-15 64th Avenue
Bayside, 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

10th day of May, 1972.

Rae Zimmerman

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO

COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
May 10, 1972

George J. and Margaret Chiha
201 LaSalle Avenue
Hasbrouck Heights, New Jersey

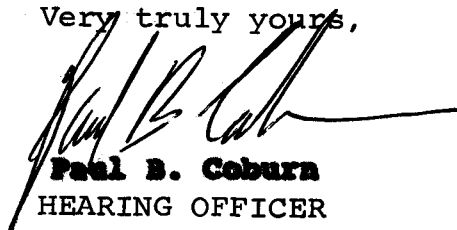
Dear Sir and Madam:

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

Please take further notice that pursuant to
Section(s) **722** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from 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 relative
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

Enc.

cc: Petitioner's Representative
Law Bureau

STATE TAX COMMISSION

Petitioners, George J. Chiha and Margaret Chiha, have filed a petition for redetermination of deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the year 1962 (File No. 2-5564995). A formal hearing was held before Solomon Sies, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on January 18, 1966, at 9:30 A.M. Petitioners appeared by James A. Lembo, C.P.A.

1. Petitioner, George J. Chiha, filed an unincorporated business tax return for the year 1962. He reported as taxable income on this return the income received by him from his unincorporated business. Alfred Chiha & Son, but omitted from taxable income the salary paid to him by Chiha-Rosenfeld, Inc.

2. On February 8, 1965, the Income Tax Bureau issued a statement of audit changes against petitioners, George J. Chiha and Margaret Chiha, imposing unincorporated business tax pursuant to Article 23 of the Tax Law upon the salary received by him from Chiha-Rosenfeld, Inc., upon the ground that the salary constituted a part of the business receipts of the business regularly carried on by him and accordingly issued a notice of deficiency therefor in the sum of \$1,700.37.

3. During the year 1962, petitioner, George J. Chiha, conducted a sole proprietorship under the name of Alfred Chiha & Son.

4. During the year 1962, petitioner George J. Chiha was also the president and owner of 50% of the stock of Chiha-Rosenfeld, Inc. The other 50% of the stock was owned by Henry and Murray Rosenfeld. He was paid a salary of \$38,333.26 for his services to the corporation. Federal income tax, New York State income tax and Social Security tax was withheld from his salary. He reflected this income as salary on his Federal and New York State income tax returns.

5. Chiha-Rosenfeld, Inc. during the year 1962 was a "manufacturer" of robes and negligees. It selected styles to be manufactured, purchased the materials and hired other firms to cut, sew, press, finish and ship the merchandise. It secured sales for the merchandise and collected on its accounts receivable.

6. Alfred Chiha & Son during the year 1962 was a "contractor" of robes and negligees. Merchandise that had been cut by other firms was sent by manufacturers to it to be sewn together and pressed.

7. During the year 1962, Alfred Chiha & Son maintained a factory and office at 114 East 25th Street, New York, New York. Chiha-Rosenfeld, Inc. also maintained an office at the same address, although it also used another firm's showroom at 33 East 33rd Street. Each organization had its own telephone listing. Each organization kept its own books and records, stationery, and checking accounts. All of the sewing and pressing required by Chiha-Rosenfeld, Inc. was done by Alfred Chiha & Son. Alfred Chiha & Son did similar work for other manufacturers. Weekly invoices were submitted and paid in the normal course of business. Petitioner, Alfred Chiha, devoted 80% of his time to the corporate business and 20% of his time to the proprietorship. His work for the corporation consisted of selecting styles to be manufactured, buying piece goods and trimmings and helping in

determining selling prices, advertising and marketing policies. His work for the proprietorship consisted of general supervision of its activities.

CONCLUSIONS OF LAW

A. That the services rendered by petitioner, George J. Chiha, during the year 1962 as an officer of Chiha-Rosenfeld, Inc. were not so integrated and interrelated with his activities in connection with his unincorporated business, Alfred Chiha & Son, as to constitute part of a business regularly carried on by him and therefore the salary received by him for services as an officer of the corporation was 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, George J. Chiha, during the year 1962 for Chiha-Rosenfeld, Inc. did not constitute the carrying on of an unincorporated business and his income derived therefrom was not subject to unincorporated business tax in accordance with the meaning and intent of Section 703 of the Tax Law.

C. That the petition of George J. Chiha and Margaret Chiha is granted and the notice of deficiency issued February 8, 1965, is cancelled.

DATED: Albany, New York

STATE TAX COMMISSION

May 10, 1972.

COMMISSIONER

Bruce Mauley

COMMISSIONER

Melvin Koen

COMMISSIONER