

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ALFRED EHRLICH

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)) 1965, 1966
and 1967.

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

State of New York
County of Albany

Rae Zimmerman, 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 17th day of March, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon

Alfred Ehrlich (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Alfred Ehrlich
440 East 79th 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

17th day of March, 1972

Joyce S. Van Patten

Rae Zimmerman



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION

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

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
March 17, 1972

Alfred Ehrlich
440 East 79th Street
New York, New York

Dear Mr. Ehrlich:

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

Please take further notice that pursuant to **section 712 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **four months** 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 relat-
ing 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

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ALFRED EHRLICH	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1965, 1966 and 1967.	:	

Petitioner, Alfred Ehrlich, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1965, 1966 and 1967. (File No. 78764344). 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 June 15, 1971, at 10:30 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Edward H. Best, Esq., (Albert J. Rossi, Esq., of Counsel).

ISSUE

Did petitioner, Alfred Ehrlich's, activities as an art appraiser and consultant during the years 1965, 1966 and 1967 constitute the practice of a profession?

FINDINGS OF FACT

1. Petitioner, Alfred Ehrlich, filed a New York State income tax resident return for the year 1965 and he and his wife filed New York State combined income tax returns for the years 1966 and 1967. He did not file New York State unincorporated business tax returns for said years.

2. On November 24, 1969, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Alfred Ehrlich, imposing unincorporated business tax upon the income received by him from his activities as an art appraiser and dealer during the years 1965, 1966 and 1967 and accordingly issued a Notice of Deficiency in the sum of \$1,307.29.

3. During the years 1965, 1966 and 1967 petitioner, Alfred Ehrlich, was an art appraiser and consultant. Over 90% of his income was derived from appraising and consulting. The balance of his earned income was derived from dealing in art objects. His income as an art appraiser and consultant was derived from personal services rendered. Capital was not a material income producing factor. Approximately, 50% of his income as an art appraiser and consultant was derived from appraising art objects for insurance companies in connection with damage claims or determinations of insurable value. The balance was derived from appraising works of art for private individuals and estates.

4. Petitioner, Alfred Ehrlich, did not graduate from high school. He has no formal academic degrees. In 1925, he commenced working in an antique shop. Subsequently, he worked for seven years as an antique buyer for Gimbel Brothers. Thereafter he worked for 20 years as manager of Hammer Galleries in New York City. He left Hammer Galleries to become an art appraiser and consultant due to ill health. He is a past president and a charter member of the Appraisers Association of America. He has been approved as an appraiser and consultant on works of art by the committee on losses

and adjustments of the New York Board of Fire Underwriters. He is an appraiser and consultant on fine art for the National Cowboy Hall of Fame and the General Adjustment Bureau.

CONCLUSIONS OF LAW

A. That the activities of petitioner, Alfred Ehrlich, as an art appraiser and consultant during the years 1965, 1966 and 1967, although requiring special knowledge and experience, did not constitute the practice of a profession exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law.

B. That the aforesaid activities of petitioner, Alfred Ehrlich, during the years 1965, 1966 and 1967 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 703 of the Tax Law.

C. That the petition of Alfred Ehrlich is denied and the Notice of Deficiency issued November 24, 1969, is sustained.

DATED: Albany, New York

March 17, 1972

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Manley
COMMISSIONER

Milton Koerner
COMMISSIONER