

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ROBERT K. FINK

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 and 1956

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 9th day of May, 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon

Robert K. Fink (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Robert K. Fink  
2121 S. Saw Mill River Road  
White Plains, 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

9th day of May, 1972

Martha Fink

Rae Zimmerman



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  
May 9, 1972

Robert K. Fink  
2121 S. Saw Mill River Road  
White Plains, New York

Dear Mr. Fink:

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,

**Lawrence A. Newman**  
Hearing Officer

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Application :  
of :  
ROBERT K. FINK : DETERMINATION  
for Revision or Refund of Unincorporated :  
Business Taxes under Article 16-A of the :  
Tax Law for the years 1955 and 1956. :

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The taxpayer applied for revision or refund of unincorporated business taxes under Article 16-A of the Tax Law for the years 1955 and 1956. A formal hearing was held before Laurence S. Gifford, Hearing Officer, in the offices of the State Tax Commission in the City of New York on March 2, 1964. The taxpayer appeared pro se.

FINDINGS OF FACT

1. The issue in this case is whether income received by the taxpayer for drawings, paintings and sketches is subject to the unincorporated business tax.
2. Taxpayer is an artist whose work includes easel paintings, magazine illustrations, book covers, calendar drawings and water colors. Less than 80% of his income was derived from noncommercial or editorial art.
3. Taxpayer filed tax returns for the years 1955 and 1956 in which he reported net income from art work in the amount of \$10,686.01 and \$8,918.46 respectively. There are no exact figures indicating the amounts earned in each of the areas listed above.
4. An audit of the taxpayer's returns resulted in notices of additional assessments Nos. 535587 and 535588 dated January 23, 1959, in the amounts of \$141.95 and \$72.54 respectively, plus interest. These assessments were based upon a determination that the taxpayer's income was subject to unincorporated business tax.

DETERMINATION

A. The activities of the taxpayer are not those of a profession exempt from unincorporated business taxes (section 703(c) Tax Law).

B. The applications are therefore overruled and the assessments sustained in full.

DATED: Albany, New York

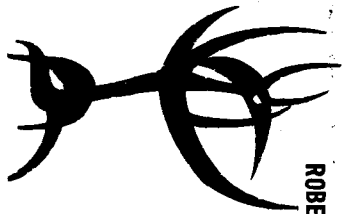
STATE TAX COMMISSION

*May 9, 1972*

COMMISSIONER

*Bruce Hawley*  
COMMISSIONER

*Milton Koehn*  
COMMISSIONER



ROBERT FINK, 2121 SOUTH SAW MILL RIVER ROAD,  
WHITE PLAINS, N.Y. 10607



EISENHOWER-USA

Mr. Hon. Laurence A. Newman

~~Heating Officer~~

N.Y. State Dept. of Transportation & Finance

Building 9

~~Room 2444~~

State Campus 108th St.

Albany, N.Y. 12227

**Robert Fink**

2121 SOUTH SAW MILL RIVER ROAD, WHITE PLAINS, N.Y. 10607 ... 914-LY2-6646

July 23, 1972

Dear Mr. Newman:

I have your communication of May 9, 1972 accompanied by a copy of a Determination of the State Tax Commission stating that I owe \$141.95 and \$72.54, respectively, for the years 1955 and 1956.

I respectfully suggest there has been an error, either in this determination, or perhaps in the assignment of case numbers.

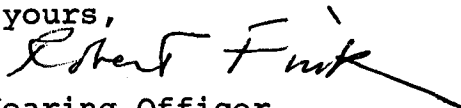
My involvement with your Department in the two named years was as follows: I contended that as a skilled artist I should be taxed as a professional, not as an "unincorporated business. I was in company with many other artists who found, quite naturally, this assumption of non-professional status in effect, if not in intent, both illogical and insulting.

In my case, my contention went through a series of meetings, culminating in a formal hearing. Result of that hearing was a denial of my contention.

However, in regard to taxes due, the result was, after all irrelevant, because, based on the portion of my earnings which represented my net taxable income for the years 1955 and 1956, the tax people then made another determination. It was that I had not made enough money to warrant being taxed. Therefore, I received not notice and ignored none. It is here, perhaps, that the error has developed.

I would very much appreciate hearing from you, and receiving the assurance that the facts are as stated in the above, in your records as well as mine.

Sincerely yours,



The Hon. Lawrence A. Newman, Hearing Officer  
State of New York Department of Taxation and Finance  
Building 9 Room 214A  
State Campus  
Albany, N.Y. 12227

