

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT FROEHLICH

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) 1964

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 31st day of August , 1972 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Robert Froehlich

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

wrapper addressed as follows: Robert Froehlich  
30 Woodhollow Road  
Great River, New York 11739

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

31st day of August , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT & EILEEN FROEHLICH

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) 1964

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 Robert & Eileen Froehlich (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Robert & Eileen Froehlich  
45-10 192nd Street  
Flushing, 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

21st day of August , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ROBERT & EILEEN FROEHLICH

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) 1964 :

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 Anthony R.  
Ullmann, Esq. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Anthony R. Ullmann, Esq.  
275 Madison Avenue  
New York, New York 10016

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  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A  
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**August 21, 1972**

**Robert & Hileen Froehlich**  
**45-10 192nd Street**  
**Flushing, New York**

**Dear Mr. & Mrs. Froehlich:**

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

Please take further notice that pursuant to **section 722**  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **4 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 :  
ROBERT & EILEEN FROEHLICH :  
for Redetermination of Deficiency or :  
for Refund of Unincorporated Business :  
Tax under Article 23 of the Tax Law :  
for the year 1964 :

DECISION

Petitioners, Robert Froehlich and Eileen Froehlich have filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1964. (File No. 12127071) 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 September 24, 1970, at 1:15 P.M. Petitioners appeared by Anthony R. Ullmann, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq., (Albert J. Rossi, Esq. of Counsel).

### FINDINGS OF FACT

1. Petitioner, Robert Froehlich, filed a New York State Unincorporated Business Tax Return for the year 1964. He reported as total income from business on this return his net profit from his unincorporated real estate brokerage business. He omitted from total income from business the salary of \$35,000.00 he received from Robert Froehlich Funding Co., Inc. and \$3,744.01 of income from other sources.

2. On July 31, 1967, the Income Tax Bureau issued a statement of audit changes against petitioner, Robert Froehlich, imposing unincorporated business tax upon the salary of \$35,000.00 received by him during the year 1964 from Robert Froehlich Funding Co., Inc. and \$3,744.01 of income from other sources and accordingly issued a notice of deficiency in the sum of \$1,729.37.

3. During the year 1964 petitioner, Robert Froehlich, conducted a real estate brokerage business as an unincorporated proprietorship.

4. During the year 1964 petitioner, Robert Froehlich, was also the Chief Executive Officer of Robert Froehlich Funding Co., Inc., a corporation founded by him in 1959. He was paid a salary of \$35,000.00 for his services to the corporation. He reflected this income as salary on his 1964 New York State Income Tax Resident Return.

5. Robert Froehlich Funding Co., Inc., during the year 1964 was solely a mortgage broker engaged in the business of buying, selling and placing mortgages in Nassau and Suffolk Counties. As part of its business it originated and serviced FHA and UA mortgages. Under the regulations of the Federal Housing Administration one of the requirements for a private business organization that originated FHA mortgages was that it be incorporated. It would obtain bulk mortgage commitments from lending institutions and would then place these funds in individual mortgages. As Chief Executive Officer of the corporation, petitioner, Robert Froehlich, secured mortgage commitments from various lending institutions, solicited mortgage business from real estate brokers and generally supervised the corporation's office and its four or five employees.

6. Petitioner, Robert Froehlich, on the other hand, during the year 1964, as an individual proprietor, was engaged in the real estate brokerage business in Nassau and Suffolk counties. He had four or five separate real estate brokerage offices wherein he employed real estate salesmen. Commissions were derived as a result of bringing about the purchase and sale of real property. He placed advertising, supervised the salesmen and generally ran the business.

7. During the year 1964, the two organizations had separate offices. Each organization had its own full time employees. At no time was any of the real estate brokerage business conducted from the corporation's office or the mortgage brokerage business conducted from the real estate brokerage offices. The real estate brokerage

business referred about 50% of its mortgage applications to the corporation. This also represented about 50% of the mortgage brokerage business done by the corporation. The rest of the mortgage brokerage business done by the corporation was with real estate brokers who were competitors of the real estate brokerage business.

8. The sum of \$3,744.01 reported by petitioner, Robert Froehlich, as income from other sources for the year 1964 consisted basically of commissions paid to him by heating and oil companies and gardeners in consideration for his recommending customers to them. On occasion the customers he recommended were persons to whom he had sold a home.

#### CONCLUSIONS OF LAW

A. That the services rendered by petitioner, Robert Froehlich, during the year 1964 as an officer of Robert Froehlich Funding Co., Inc., were not so integrated and interrelated with his activities in connection with his unincorporated real estate brokerage business as to constitute part of a business regularly carried on by him and therefore the salary of \$35,000.00 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, Robert Froehlich, on behalf of the corporation during the year 1964 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 petitioner, Robert Froehlich's, receipt of commissions of \$3,744.01 during the year 1964 from heating and oil companies and gardeners for recommending customers constituted the carrying on of an unincorporated business in accordance with the meaning and intent of Section 703(a) of the Tax Law.

D. That even if the aforesaid commission business during the year 1964 constituted a business separate and apart from petitioner, Robert Froehlich's, unincorporated real estate brokerage business, the income derived therefrom was still subject to unincorporated business tax since if an individual carries on two or more unincorporated businesses, all such businesses are treated as one business for unincorporated business tax purposes in accordance with the meaning and intent of Section 703(a) of the Tax Law.

E. That the petition of Robert Froehlich and Eileen Froehlich is granted to the extent of reducing the amount of additional unincorporated business tax due for the year 1964 from \$1,520.15 to \$126.60 and the notice of deficiency issued July 31, 1967, is reduced to \$144.02 together with such interest as may be due from said date and, except as so granted, the petition is in all other respects denied.

STATE TAX COMMISSION

DATED: Albany, New York

August 21, 1978

Commissioner  
*James J. Sullivan*

Commissioner  
*Robert H. Haverly*

Commissioner  
*William H. Korman*



STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227



**CERTIFIED**

No. 592734

**MAIL**

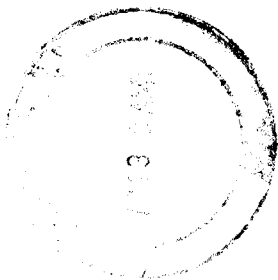
Robert & Eileen Froehlich

45-10 192nd Street

Flushing, New York

- ☐ Moved, left no address  
☐ No such number  
☒ Moved, not forwardable  
☐ Addressee unknown

091-03-4824



MEMORANDUM

DATE:

8/28/72

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: ROBERT FROEHLICH

SOCIAL SECURITY NO.:

091-03-4824

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

  
Paul B. Coburn

Taxpayer's last known address is:

1971 return

30 WOODHOLLOW ROAD

GREAT RIVER, N.Y. 11739