

STATE OF NEW YORK
STATE TAX COMMISSION

U.B.T. Art 23
1962-'63 & 64

In the Matter of the Petition

of

PETER GLADSTONE

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) 23 of the
Tax Law for the (Year(s) 1962, 1963 & 1964

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 3rd day of May, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Peter Gladstone
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Peter Gladstone
480 Park Avenue
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

3rd day of May, 1972.

Rae Zimmerman

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PETER GLADSTONE

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, 1963 & 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 3rd day of May, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Margolin & Sedler

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

wrapper addressed as follows: Margolin & Sedler
570 Seventh Avenue
New York, New York 10018

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

3rd day of May, 1972.

Rae Zimmerman

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

May 3, 1972

Peter Gladstone
480 Park Avenue
New York, New York

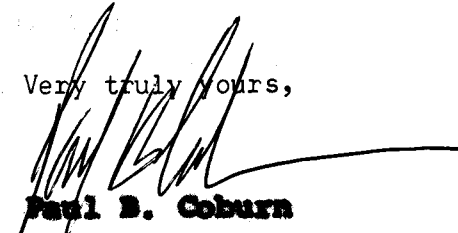
Dear Mr. Gladstone:

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 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 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
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
PETER GLADSTONE	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law for	:	
the Years 1962, 1963 and 1964.	:	

Petitioner, Peter Gladstone, 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 1962, 1963 and 1964. (File No. 26113143). 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 August 17, 1971, at 9:45 A.M. Petitioner appeared by Ben Margolin, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq., (Albert J. Rossi, Esq., of Counsel).

ISSUE

Did petitioner, Peter Gladstone's, activities as a contact man for Bulova Watch Company, Avco Corporation and S.J. Wain Co. during the years 1962, 1963 and 1964 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, Peter Gladstone, and his wife filed New York State income tax resident returns for the years 1962, 1963 and 1964. He did not file New York State unincorporated business tax returns for said years.

2. On August 21, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Peter Gladstone, imposing unincorporated business tax upon the income received by him from

his activities as a contact man during the years 1962, 1963 and 1964 and accordingly issued a Notice of Deficiency in the sum of \$1,504.38.

3. For twenty years prior to 1962, petitioner, Peter Gladstone, was employed as a contact man, primarily on government contracts, for Bulova Watch Company. He handled the public relations with government agencies with whom Bulova Watch Company had contracts or wished to obtain contracts. He became 65 years of age in 1961. Due to the restrictions of the company pension plan he was no longer permitted to be an employee of the company and his employment was terminated.

4. In 1962, Bulova Watch Corporation retained petitioner, Peter Gladstone, as a public relations consultant. He continued to do the same type of work as when he had been employed by the company. In 1962 and 1963, he did similar work for Avco Corporation. In 1962, he also carried out one assignment for S.J. Wain Co. He received fees from the various companies pursuant to oral agreements negotiated between them. They did not withhold Federal or New York State income taxes or social security tax from the compensation paid to him. They did not reimburse him for entertainment expenses. He was reimbursed for traveling expenses. They did not exercise any substantial supervision or control over his activities as a contact man.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Peter Gladstone, from Bulova Watch Company, Avco Corporation and S.J. Wain Co. during the years 1962, 1963 and 1964 constituted income from his regular business as a contact man and not compensation as an employee 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, Peter Gladstone, during the years 1962, 1963 and 1964 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 Peter Gladstone is denied and the Notice of Deficiency issued August 21, 1967, is sustained.

DATED: Albany, New York

May 3, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER