

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALLEN BINDLER and KATHLEEN BINDLER

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 17th day of January, 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon ALLEN AND
KATHLEEN BINDLER (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Allen and Kathleen Bindler
216 Hollywood Avenue
Yonkers, 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 January, 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALLEN BINDLER and KATHLEEN BINDLER

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 17th day of January , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon ALLAN J.

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

wrapper addressed as follows:

Allan J. Moroknek, Esq.
666 Fifth 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

17th day of January , 1973.

Lynne Wilson

Martha Funaro



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

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
January 17, 1973

Allen and Kathleen Bindler
216 Hollywood Avenue
Yonkers, New York

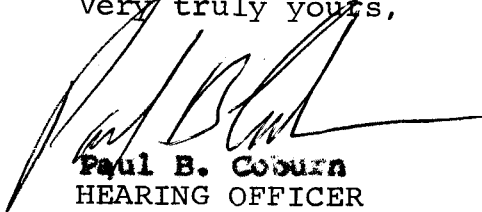
Dear Mr. and Mrs. Bindler:

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 OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ALLEN BINDLER and KATHLEEN BINDLER	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Unincorporated Business Tax	:	
under Article 23 of the Tax Law for the	:	
Year 1964.	:	

Petitioners, Allen Bindler and Kathleen Bindler, have filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1964. (File No. 12131517). 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 May 25, 1972, at 2:45 P.M. Petitioners appeared by Allan J. Moroknek, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

ISSUE

Was all of petitioner, Allen Bindler's business income received during the year 1964 allocable to New York State for purposes of the New York State unincorporated business tax?

FINDINGS OF FACT

1. Petitioners, Allen Bindler and Kathleen Bindler, filed a New York State income tax resident return for the year 1964. Petitioner, Allen Bindler, filed a New York State unincorporated business tax return for said year. He allocated a portion of his business income to New Jersey on said return.

2. On May 1, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Allen Bindler and Kathleen Bindler, disallowing petitioner, Allen Bindler's allocation for

the year 1964 of a portion of his business income to New Jersey and accordingly issued a Notice of Deficiency in the sum of \$424.04.

3. Petitioner, Allen Bindler, conducted business under the name of Allen Savage Network Productions during the year 1964. His business consisted of producing radio programs for sponsors to be broadcast on radio station WVNJ. He maintained a sales office at 30 East 54th Street in New York City. He filed a certificate of doing business with the County Clerk of New York County. His business card set forth his New York office address. All contracts for the sale of radio time were signed by the sponsor and the petitioner. The contracts were subsequently approved by the radio station. All payments for radio time sold were made directly by the sponsor to him. He was liable to WVNJ for the cost of radio time consumed by his sponsors. In excess of 90% of his customers were located in New Jersey.

4. WVNJ was a radio station located in Newark, New Jersey during the year 1964. The station provided petitioner, Allen Bindler, with a desk and the use of one of its secretaries when he was at its premises. He was not charged rent by WVNJ for the use of said facilities. His company's name was listed in the building directory. He did not file a certificate of doing business in New Jersey.

5. Petitioner, Kathleen Bindler, was not engaged in an unincorporated business during the year 1964.

CONCLUSIONS OF LAW

A. That petitioner, Allen Bindler, did not have a regular place of business outside of New York State during the year 1964 and, therefore, all of his business income, including the income derived from out-of-state sales during said period, was properly allocated to New York State in accordance with the meaning and intent of section 707(a) of the Tax Law.

B. That since petitioner, Kathleen Bindler, was not engaged in an unincorporated business during the year 1964, she is not liable for New York State unincorporated business tax for said year.

C. That the petition of Allen Bindler and Kathleen Bindler is granted to the extent of cancelling the Notice of Deficiency issued May 1, 1967, as against petitioner, Kathleen Bindler, and, except as so granted, the petition is in all other respects denied and the Notice of Deficiency issued May 1, 1967, as against petitioner, Allen Bindler, is sustained.

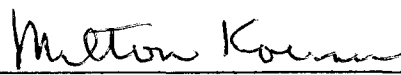
DATED: Albany, New York
January 17, 1973

STATE TAX COMMISSION

COMMISSIONER



COMMISSIONER



COMMISSIONER