

DEPARTMENT OF TAXATION AND FINANCE

MEMORANDUM

TO : Mr. Edward Rook
FROM : John F. Donovan
SUBJECT: Charles H. Carter

OFFICE: Income Tax
DATE : July 26, 1973

In reading Mr. Gifford's report, I find that the percentage of taxable commercial art for the years 1952 through 1954 was about 37%. Even if we estimate under the Cohan rule, it might be increased to 57%. Even using the higher percentage, there was not enough income to result in Unincorporated Business Tax.

In addition, the taxpayer's percentage of commercial art work, as against fine art, was decreasing over the years. I have examined all subsequent tax returns and find that in no case would there be any taxable commercial art applying the above percentages. I see no objection to cancelling the assessments with no adjustments to subsequent years.

There was one year not yet in litigation, for 1957, which was assessed. Applying the above percentages, we are cancelling this assessment also.

I am keeping the file, and we will close the case administratively.


John F. Donovan
Director

