

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PAUL SCHICKLER and LORELEI SCHICKLER

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) 1966

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 14th day of February, 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon PAUL and LORELEI
SCHICKLER (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Paul and Lorelei Schickler
14 Ribbon Lane
Wantagh, New York 11793

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

14th day of February, 1973

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PAUL SCHICKLER and LORELEI SCHICKLER

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business;
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Tax Law for the (Year(s) 1966

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 14th day of February , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon SAUL OLINSKY, ESQ.

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

wrapper addressed as follows:

Saul Olinsky, Esq.
1543 Moffitt Avenue
Hewlett, 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

14th day of February , 19 73

Lynn Wilson

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
February 14, 1973

**Paul and Lorelei Schickler
14 Ribbon Lane
Wantagh, New York 11793**

Dear Mr. and Mrs. Schickler:

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

Please take further notice that pursuant to **section 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 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	:	
PAUL SCHICKLER and LORELEI SCHICKLER	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Unincorporated Business Tax	:	
under Article 23 of the Tax Law for the	:	
Year 1966.	:	

Petitioners, Paul Schickler and Lorelei Schickler, 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 1966 (File No. 52089310). A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York for September 28, 1972 at 1:15 p.m. On September 27, 1972, petitioners' representative, Saul Olinsky, Esq., advised the State Tax Commission in writing that petitioners desired to waive a formal hearing and to submit the case to the State Tax Commission upon the record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Did petitioner, Paul Schickler's activities as a photographer's representative during the year 1966 constitute the practice of a profession?

FINDINGS OF FACT

1. Petitioners, Paul Schickler and Lorelei Schickler, filed a New York State income tax resident return for the year 1966. They simultaneously filed a New York State unincorporated business tax return for said year, wherein they reported petitioner, Paul Schickler's

income as a photographer's representative to be subject to the unincorporated business tax. They accordingly paid unincorporated business tax for said year in the sum of \$419.38.

2. On September 16, 1969, petitioners, Paul Schickler and Lorelei Schickler, filed a claim for credit or refund of unincorporated business tax for the year 1966 in the sum of \$419.38 upon the grounds that petitioner, Paul Schickler's activities as a photographer's representative constituted the practice of a profession exempt from the imposition of the unincorporated business tax.

3. On February 24, 1970, the Income Tax Bureau issued a Notice of Disallowance to petitioners, Paul Schickler and Lorelei Schickler, disallowing their claim for credit or refund of unincorporated business tax for the year 1966.

4. Petitioner, Paul Schickler, was a photographer's representative during the year 1966. He maintained a business office at 48 East 53rd Street in New York City.

5. Petitioner, Paul Schickler, failed to submit any documentary or other substantial evidence to prove the specific nature of his work during the year 1966 or to prove the type of academic or other training he had received in said field of endeavor.

6. Petitioner, Paul Schickler's income as a photographer's representative during the year 1966 was derived solely from personal services rendered. Capital was not a material income producing factor.

CONCLUSIONS OF LAW

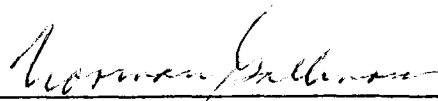
A. That the activities of petitioner, Paul Schickler, as a photographer's representative during the year 1966 did not constitute the practice of a profession exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law. Petition of Robert Gordon N.Y.S.T.C. October 20, 1969.

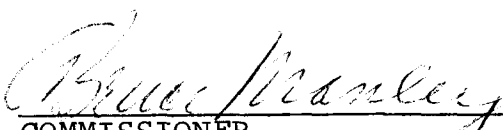
B. That the aforesaid activities of petitioner, Paul Schickler, during the year 1966 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

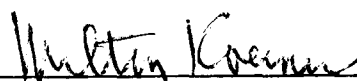
C. That the petition of Paul Schickler and Lorelei Schickler is denied and the Notice of Disallowance of their claim for credit or refund of unincorporated business tax for the year 1966, issued February 24, 1970, is sustained.

DATED: Albany, New York
February 14, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER