

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
DAVID RUBENSTEIN and  
ESTATE OF JOSEPH CHECINSKI  
d/b/a BESDIN'S BAKERY  
For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business :  
Taxes under Article (x) 23 of the  
Tax Law for the Year (x) F/Y/E June 30, :  
1965 and June 30, 1966.

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

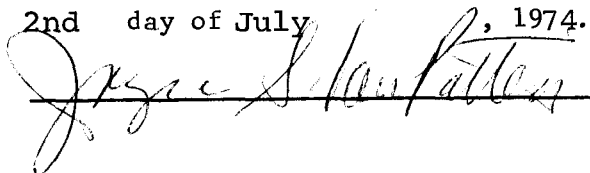
State of New York  
County of Albany

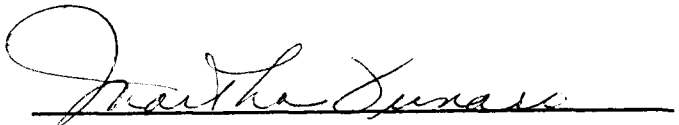
Martha Funaro , being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 2nd day of July , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Besdin's Bakery  
c/o David Rubenstein ~~XXXXXXXXXXXX~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Besdin's Bakery  
c/o David Rubenstein  
147 Fayette Boulevard  
Syracuse, 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

2nd day of July , 1974.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

DAVID RUBENSTEIN and  
ESTATE OF JOSEPH CHECINSKI  
d/b/a BESDIN'S BAKERY

For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business :  
Taxes under Article (8) 23 of the  
Tax Law for the Year(s) F/Y/E June 30, :  
1965 and June 30, 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 2nd day of July , 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon M. Leonard Shapero,  
Esq.

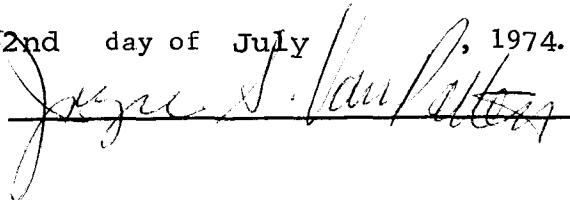
(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: M. Leonard Shapero, Esq.  
605 Wilson Building  
Syracuse, New York


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

2nd day of July , 1974.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

**DATED:** Albany, New York  
**July 2, 1974**

**Bedin's Bakery**  
**c/o David Rubenstein**  
**147 Fayette Boulevard**  
**Syracuse, New York**

**Gentlemen:**

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

Please take further notice that pursuant to  
Section ~~76~~ **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,

**L. Robert Leisner**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
DAVID RUBENSTEIN and	:	
ESTATE OF JOSEPH CHECINSKI	:	DECISION
d/b/a BESDIN'S BAKERY	:	
for Redetermination of a Deficiency	:	
or for Refund of Unincorporated	:	
Business Taxes under Article 23 of	:	
the Tax Law for the F/Y/E June 30,	:	
1965 and June 30, 1966.	:	

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Petitioners, David Rubenstein and Estate of Joseph Checinski d/b/a Besdin's Bakery, petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the F/Y/E June 30, 1965 and June 30, 1966.

A formal hearing was held at the offices of the State Tax Commission, Syracuse, New York, on June 29, 1972, before L. Robert Leisner, Hearing Officer. The taxpayers were represented by M. Leonard Shapero, Esq., and the Income Tax Bureau was represented by Saul Heckelman, Esq., (Alexander Weiss, Esq., of counsel).

ISSUE

Was gain on both a bakery building and a separate adjacent wood-frame building with rental apartment, which were seized for public use, subject to unincorporated business taxes?

FINDINGS OF FACT

1. Petitioners, David Rubenstein and Estate of Joseph Checinski d/b/a Besdin's Bakery, timely filed New York State unincorporated business tax returns for the years in issue.

2. A Notice of Determination of deficiencies in unincorporated

business taxes for those years was issued on August 27, 1968, against the taxpayers under File No. 391.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. The two separate buildings were bought from the Besdin estate years ago by the partnership.

5. The partnership operated a bakery in a brick and block building. Adjacent to it was a separate wood-frame building consisting of a three family dwelling and restaurant.

6. These were taken by the state for public purposes and payment made to the bakery in 1965 and 1966.

7. The buildings were entirely separate and they were described separately in various legal papers such as wills, assessments, etc.

8. The partnership reported its bakery income and its rental income on its unincorporated business tax returns. It also deducted taxes, depreciation and other expenses on both the buildings on its unincorporated business tax returns for each year in question.

#### CONCLUSIONS OF LAW

A. The bakery property and the rental property were both assets of the unincorporated business.

B. The gain on the taking of both the properties was gain to the partnership and subject to unincorporated business taxes.

C. The taxpayers' petition is denied and the deficiencies


are sustained.

D. Pursuant to the Tax Law interest shall be added to the tax due until paid.

DATED: Albany, New York  
July 2, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

DATED: Albany, New York  
July 2, 1974

Besdin's Bakery  
c/o David Rubenstein  
147 Fayette Boulevard  
Syracuse, New York

Gentlemen:

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

Please take further notice that pursuant to  
Section ~~76~~ 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,

L. Robert Leisner  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

AD-1.12 (8/73)

AD 32 (6-73) 280M

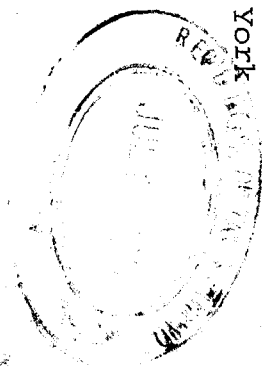
STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227

Besdin's Bakery  
c/o David Rubenstein  
147 Fayette Boulevard  
Syracuse, New York





STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
DAVID RUBENSTEIN and	:	
ESTATE OF JOSEPH CHECINSKI	:	DECISION
d/b/a BESDIN'S BAKERY	:	
for Redetermination of a Deficiency	:	
or for Refund of Unincorporated	:	
Business Taxes under Article 23 of	:	
the Tax Law for the F/Y/E June 30,	:	
1965 and June 30, 1966.	:	

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Petitioners, David Rubenstein and Estate of Joseph Checinski d/b/a Besdin's Bakery, petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the F/Y/E June 30, 1965 and June 30, 1966.

A formal hearing was held at the offices of the State Tax Commission, Syracuse, New York, on June 29, 1972, before L. Robert Leisner, Hearing Officer. The taxpayers were represented by M. Leonard Shapero, Esq., and the Income Tax Bureau was represented by Saul Heckelman, Esq., (Alexander Weiss, Esq., of counsel).

ISSUE

Was gain on both a bakery building and a separate adjacent wood-frame building with rental apartment, which were seized for public use, subject to unincorporated business taxes?

FINDINGS OF FACT

1. Petitioners, David Rubenstein and Estate of Joseph Checinski d/b/a Besdin's Bakery, timely filed New York State unincorporated business tax returns for the years in issue.
2. A Notice of Determination of deficiencies in unincorporated

IN the matter of the Estate of

DECEASED

DAVID KUSHNER, and  
ESTATE OF DAVID KUSHNER  
JAMES KUSHNER, TRUSTEE

for determination of a deduction  
for the kind of business operated  
under Article 22 of the Tax Law  
for the years 1955 and 1956.

Petitioner, David Kushner and Estate of David Kushner

of the Estate of David Kushner, petitioned for a determination of deduction

in connection with the estate of David Kushner under Article 22 of the Tax Law

for the years 1955 and 1956.

A formal hearing was held at the office of the State Tax

Commission, Syracuse, New York, on June 19, 1957, before J. Robert

Leiner, hearing officer. The taxpayer was represented by

A. Benjamin Shuman, Esq., and the Income Tax Bureau was repre-

sented by Paul H. Hirschman, Esq., (Alexander Weiss, Esq., of counsel).

ISSUE

was held on both a bakery building and a separate adjacent

wood-frame building with rental agreement, which were owned by

public use, subject to unincorporated business taxes?

FACTS OF CASE

1. Petitioner, David Kushner and Estate of David Kushner

of the Estate of David Kushner, timely filed New York State unincorporated

business tax returns for the years in issue.

2. A notice of determination of deduction in unincorporated

business taxes for those years was issued on August 27, 1968, against the taxpayers under File No. 391.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. The two separate buildings were bought from the Besdin estate years ago by the partnership.

5. The partnership operated a bakery in a brick and block building. Adjacent to it was a separate wood-frame building consisting of a three family dwelling and restaurant.

6. These were taken by the state for public purposes and payment made to the bakery in 1965 and 1966.

7. The buildings were entirely separate and they were described separately in various legal papers such as wills, assessments, etc.

8. The partnership reported its bakery income and its rental income on its unincorporated business tax returns. It also deducted taxes, depreciation and other expenses on both the buildings on its unincorporated business tax returns for each year in question.

#### CONCLUSIONS OF LAW

A. The bakery property and the rental property were both assets of the unincorporated business.

B. The gain on the taking of both the properties was gain to the partnership and subject to unincorporated business taxes.

C. The taxpayers' petition is denied and the deficiencies

business taxes for those years was issued on August 27, 1962,

against the taxpayers under Title No. 391.

3. The taxpayers petitioned for redetermination of the

deficiencies.

4. The two separate buildings were bought from the Beeson

estate years ago by the partnership.

5. The partnership operated a bakery in a brick and block

building. Adjacent to it was a separate wood-frame building

consisting of a three family dwelling and restaurant.

6. These were taken by the state for public purposes and

payment made to the bakery in 1961 and 1962.

7. The buildings were entirely separate and they were

described separately in various legal papers such as wills,

assessments, etc.

8. The partnership reported its heavy income and its

rental income on its unincorporated business tax returns. It

also deducted taxes, depreciation and other expenses on both the

buildings on its unincorporated business tax returns for each

year in question.

CONCLUSIONS OF LAW

A. The bakery property and the rental property were both

assets of the unincorporated business.

B. The gain on the sale of both the properties was given

to the partnership and subject to unincorporated business taxes.

C. The taxpayers' petition is denied and the deficiencies


are sustained.

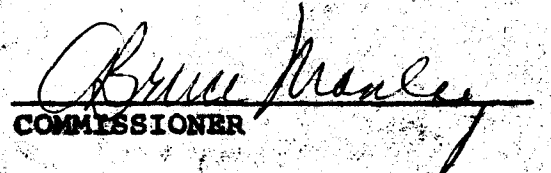
D. Pursuant to the Tax Law interest shall be added to the tax due until paid.

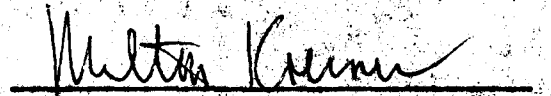
DATED: Albany, New York

July 2, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

and amended.

in. Payment to the law firm shall be added to

the tax due until paid.

STATE TAX COMMISSION

ALBANY, NEW YORK

DATE: 1960

COMPTROLLER

COMPTROLLER

COMPTROLLER