

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALAN O. HICKOK AND ANN

TREACY HICKOK CANAVAN

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article ~~(e)~~ 23 of the
Tax Law for the Year ~~(s)~~ 1963

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

State of New York
County of Albany

JOYCE S. VAN PATTEN, 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 May, 19 74, she served the within
Notice of Decision ~~(or Determination)~~ by (certified) mail upon Mr. Alan O.
Hickok ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

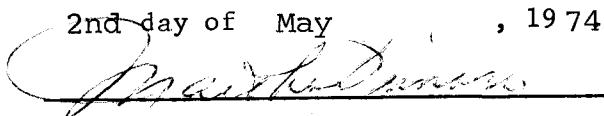
Mr. Alan O. Hickok
589 East Street
Pittsford, New York

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)~~
~~(s)~~ 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 May, 19 74.





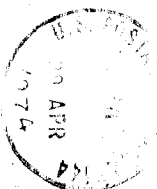
AD 32 (6-73) 250M

STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12227

RETURN
TO SENDER

Moved
Box Here
Increased

Mr. Alan O. Hickok
850 St. Paul Street
Rochester, New York 14605



ALWAYS USE
ZIP CODE

ATT:

Edward Frank

Edg 79



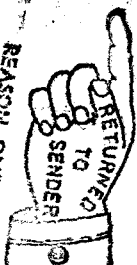
100-1-2000

AD 32 (6-73) 250M

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
ALBANY, N. Y. 12227

Mr. Hickok



REASON RETURNED

Undelivered

Address too unknown

Insufficient address

No such street

No such office

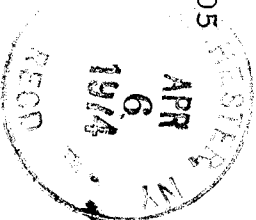
No such name

Mr. Alan O. Hickok

850 St. Paul Street

Rochester, New York 14605

253917





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALAN O. HICKOK AND ANN
TREACY HICKOK CANAVAN

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) 1963

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 11th day of April, 1974, she served the within Notice of Decision (~~for Redetermination~~) by (~~certified~~) mail upon Alan O. Hickok (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Alan O. Hickok
850 St. Paul Street
Rochester, New York 14605
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~~) ~~XXXX~~ 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

11th day of April, 1974.

Judge S. Van Pelters

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALAN O. HICKOK and
ANN TREACY HICKOK CANAVAN

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) 1963.

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 5th day of April, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon ALAN O. HICKOK

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

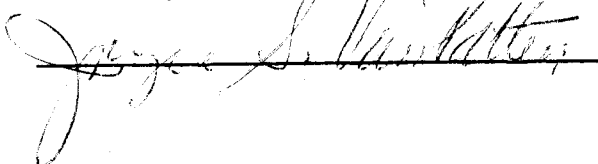
wrapper addressed as follows: Mr. Alan O. Hickok
850 St. Paul Street
Rochester, New York 14605

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

5th day of April, 1974





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALAN O. HICKOK and

ANN TREACY HICKOK CANAVAN

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) 1963. :

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 5th day of April, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon J. ERNEST BROPHY, ESQ.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

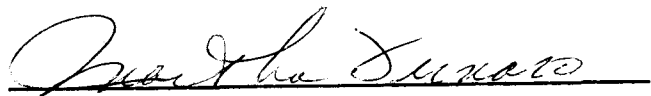
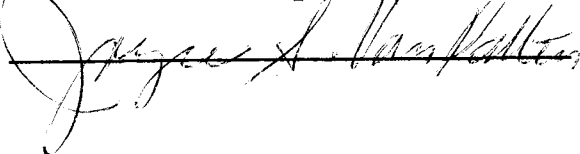
J. Ernest Brophy, Esq.
913 Temple Building
Rochester, New York 14604

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

5th day of April, 1974



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALAN O. HICKOK and
ANN TREACY HICKOK CANAVAN

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) 1963.

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

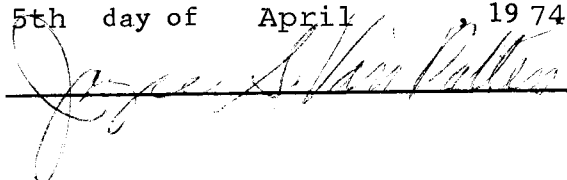
State of New York
County of Albany

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 5th day of April, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon ANN TREACY HICKOK
CANAVAN
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mrs. Ann Treacy Hickok Canavan
94 Whitewood Lane
Rochester, New York 14618
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

5th day of April, 1974





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALAN O. HICKOK and
ANN TREACY HICKOK CANAVAN

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) 1963. :

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 5th day of April, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon STANTON G. LEVIN, ESQ.

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

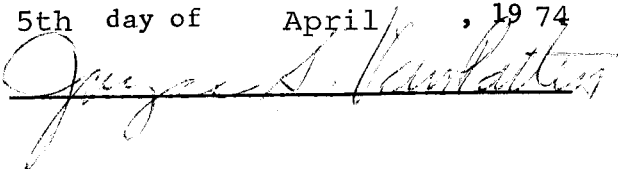
wrapper addressed as follows: Stanton G. Levin, Esq.
47 South Fitzhugh Street
Rochester, New York

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

5th day of April, 1974







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

~~XXXXXXXXXXXX~~ Mario A. Procaccino
~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
April 5, 1974

Mr. Alan O. Hickok
850 St. Paul Street
Rochester, New York 14605

Dear Mr. Hickok:

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,


~~XXXXXXXXXXXX~~

Edward Rook
Secretary to the
State Tax Commission

cc Petitioner's Representative
Law Bureau



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

Mario A. Procaccino
~~COMMISSIONER~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
April 5, 1974

Mrs. Ann Treacy Hickok Canavan
94 Whitewood Lane
Rochester, New York 14618

Dear Mrs. Canavan:

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,

~~EDWARD ROOK~~

Edward Rook
Secretary to the
State Tax Commission

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

| | | |
|--|---|----------|
| In the Matter of the Petition | : | |
| of | : | |
| ALAN O. HICKOK AND ANN | : | |
| TREACY HICKOK CANAVAN | : | DECISION |
| for a Redetermination of a Deficiency | : | |
| or for Refund of Unincorporated Business | : | |
| Taxes under Article 23 of the Tax Law | : | |
| for the Year 1963. | : | |

The taxpayers petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the year 1963.

A formal hearing was held at the offices of the State Tax Commission, Rochester, New York on November 10, 1971, before L. Robert Leisner, Hearing Officer. Alan O. Hickok was represented by J. Ernest Brophy, Esq. and Ann Treacy Hickok Canavan was represented by Stanton L. Levin, Esq. and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

Was the gain on the sale of the taxpayers Clark Road farm property in 1963 subject to unincorporated business tax?

FINDINGS OF FACT

1. Petitioners, Alan O. Hickok and Ann Treacy Hickok, timely filed New York State income tax returns for the year 1963.
2. A Notice of Determination of deficiencies in unincorporated business tax for the year 1963 was issued on October 17, 1966 against the taxpayers under File No. 37710670.
3. The taxpayers petitioned for redetermination of the deficiencies.

4. Alan O. Hickok and Ann Treacy Hickok Canavan jointly owned farm property as tenants in the entirety on Clark Road in the Town of Penfield, Monroe County, New York prior to their divorce in November of 1962.

5. The taxpayers filed joint New York State income tax returns for the years 1960 and 1961 with Federal Schedule F" Farm returns attached. These returns showed a farm loss of \$1,045.62 for 1960 and a farm profit of \$641.26 for 1961.

6. The taxpayers did not actively cultivate, manage or work on their farm. They received a share of the profits or losses from raising polled Hereford cattle on a sharing arrangement with Mr. Oldenbach, their neighbor, who actively farmed the farms. In 1960, for example, the taxpayers had deductions for feed, seeds repairs and maintenance, fuel, game farm, expense, conservation expense and they deducted depreciation for fences, barns, tractor, and lightning rods.

7. In 1962, the taxpayers were divorced and filed separate state income tax returns. Alan O. Hickok showed a farm loss of \$474.71 on his state return. Ann Treacy Hickok did not show any farm income or loss on her income.

8. After their divorce, the taxpayers liquidated the farm, selling the land for \$214,570.25 with a gain of \$178,643.38.

CONCLUSIONS OF LAW

A. The taxpayers were in the farming business during the years 1960 and 1961 where they had farm losses and profits based upon farm production. Internal Revenue Service Reg. 1.182-2.

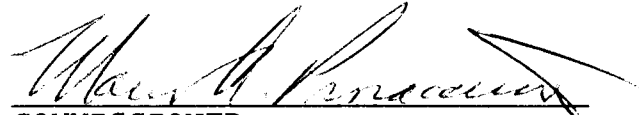
B. Upon their divorce, the taxpayers liquidated their farm assets. The gain derived from the sale of the farm was subject to unincorporated business tax.

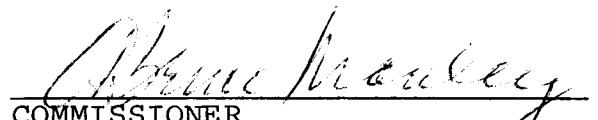
C. The taxpayers' petition is denied and the determination of the deficiency against the taxpayers is sustained.

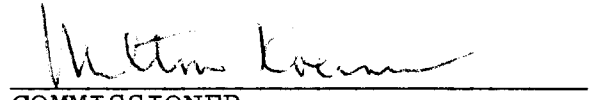
D. Pursuant to the Tax Law, interest shall be added to the total tax due until paid.

DATED: Albany, New York
April 5, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER