

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

DORIS C. NEGER

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

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) 1965, 1966 and:  
1967

State of New York  
County of Albany

Janet Mack , 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 4th day of November , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Doris C. Neger

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

224 Roslyn Road  
Mineola, New York 11501

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 the)~~  
~~xxx~~ 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

4th day of November , 1974.

Matthew Durano

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

DORIS C. NEGER

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OF NOTICE OF DECISION  
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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) 1965, 1966 and:  
1967.

State of New York  
County of Albany

Janet Mack, 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 4th day of November , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Jerome Schooler, CPA.

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

314 Fulton Avenue  
Hempstead, 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

4th day of November , 1974

Martha Durano

Janet Mack



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  
**November 4, 1974**

**Miss Doris C. Neger**  
**224 Roslyn Road**  
**Mineola, New York 11501**

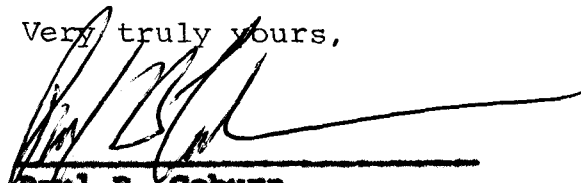
**Dear Miss Neger:**

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

Please take further notice that pursuant to  
Section ~~(5)~~ **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

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petitions	:	
of	:	
DORIS C. NEGER	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1965, 1966 and 1967.	:	

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Petitioner, Doris C. Neger, filed petitions for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1965, 1966 and 1967.

(File Nos. 5-6044642, 6-6048547 and 7-4512366). A formal hearing was held before Lawrence A. Newman, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on July 22, 1971, at 9:20 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Edward H. Best, Esq., (Solomon Sies, Esq., of counsel).

ISSUES

I. Was the income received by petitioner, Doris C. Neger, during the years 1965, 1966 and 1967, from the Doris C. Neger Reporting Service, subject to the unincorporated business tax?

II. Was the income received by petitioner, Doris C. Neger, during the years 1965, 1966 and 1967, from the Stenotype Accredited Reporting, Inc., subject to the unincorporated business tax?

III. Was the income received by petitioner, Doris C. Neger, during the years 1965, 1966 and 1967, from Investors Planning Corp., subject to the unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Doris C. Neger, filed New York State income tax resident returns for the years 1965, 1966 and 1967. She did

not file New York State unincorporated business tax returns for said years.

2. On May 26, 1969, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Doris C. Neger, imposing unincorporated business tax upon business income received by her during the year 1965. It also imposed a penalty for failure to file a New York State unincorporated business tax return for said year in the sum of \$60.12. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$579.80. Petitioner, Doris C. Neger, paid said sum and asks for a refund in the same amount.

3. On January 21, 1971, the Income Tax Bureau issued two statements of audit changes against petitioner, Doris C. Neger, imposing unincorporated business tax upon the business income received by her during the years 1966 and 1967. In accordance with the aforesaid statements, it issued two notices of deficiency in the total sum of \$732.35.

4. Petitioner, Doris C. Neger, was a certified shorthand reporter, a recognized profession, in accordance with the meaning and intent of section 703(c) of the Tax Law and 20 NYCRR 281.4, during the years 1965, 1966 and 1967.

5. During the years 1965, 1966 and 1967, petitioner, Doris C. Neger, received income from her own business, the Doris C. Neger Reporting Service, which was in the business of providing shorthand reporters. The services were performed primarily by other shorthand reporters who were paid by petitioner. Petitioner maintained a business office at her home in connection with her reporting service.

6. During the years 1965, 1966 and 1967, petitioner, Doris C. Neger, received income from a corporation, Stenotype Accredited Reporting, Inc., for services as a certified shorthand reporter.

Petitioner was president of the corporation, owning 60% of its stock. Petitioner performed 90% of the reporting services. In addition, she solicited business for the corporation in order to keep the enterprise going. The corporation did not withhold Federal and New York State income taxes and social security from the commissions paid to petitioner, Doris C. Neger. The corporation also did not provide coverage for disability or workmen's compensation. Petitioner's income was handled like that of an independent contractor. Petitioner was not reimbursed for any of her expenses, which she deducted on Schedule "C" of her Federal income tax returns.

7. During the year 1965, petitioner, Doris C. Neger, received a gross income of \$23,550.65 from the operation of her reporting services. Of this, \$11,158.04 was paid by petitioner to the shorthand reporters that she used in the Doris C. Neger Reporting Services. During the year 1966, petitioner received a gross income of \$21,816.40 from her reporting services, of which \$10,311.10 was paid to shorthand reporters. During the year 1967, petitioner received a gross income of \$10,135.63 from her reporting services, of which \$7,511.66 was paid to shorthand reporters. More than 20% of the shorthand reporting services were performed by others than petitioner, Doris C. Neger, herself in the combined operation of the Doris C. Neger Reporting Service and Stenotype Accredited Reporting, Inc., during the years 1965, 1966 and 1967.

8. During the years 1965, 1966 and 1967, petitioner, Doris C. Neger, received income as a sales representative of securities for Investors Planning Corp., a mutual fund sales company. Petitioner's agreement with the company specifically stated that petitioner was an independent contractor and that no employee/employer relationship existed between petitioner and Investors Planning Corp. The company did not provide coverage for disability

or workmen's compensation and did not withhold Federal and New York State income taxes and social security from the commissions paid to her. She was not reimbursed for any of her expenses, which she deducted on Schedule "C" of her Federal income tax returns. Investors Planning Corp. did not exercise any substantial supervision or control over petitioner's sales activities and techniques or over the time she devoted to sales.

CONCLUSIONS OF LAW

A. That the services rendered by petitioner, Doris C. Neger, during the years 1965, 1966 and 1967, for Stenotype Accredited Reporting, Inc., were so interrelated and integrated with her activities in connection with her independent business, the Doris C. Neger Reporting Service, that the two operations must be combined for the purposes of determining petitioner's unincorporated business tax liability.

B. That less than 80% of petitioner, Doris C. Neger's income received from the aforesaid businesses during the years 1965, 1966 and 1967, was derived from personal services rendered and therefore, said income was not exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law.

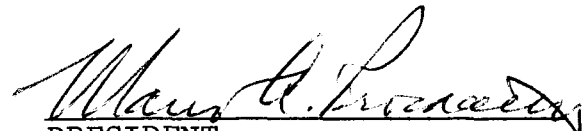
C. That the income received by petitioner, Doris C. Neger, from Investors Planning Corp., during the years 1965, 1966 and 1967, did not constitute compensation as an employee exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

D. That the aforesaid income received by petitioner, Doris C. Neger, during the years 1965, 1966 and 1967, was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

E. That the petitions of Doris C. Neger are denied and the notices of deficiency issued May 26, 1969 and January 21, 1971, are sustained,

DATED: Albany, New York  
November 4, 1974

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER





STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
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MR. LEISNER 457-2657  
MR. COBURN 457-2896

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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

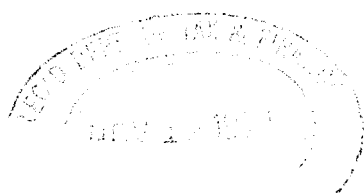
AD-1.12 (8/73)

AD 32 (6-73) 250M

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

~~Jerome Schooler, C.P.A.  
314 Fulton Avenue  
Hempstead, New York~~

DR. Rock



STATE OF NEW YORK  
STATE TAX COMMISSION

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DATED: Albany, New York  
November 4, 1974

STATE TAX COMMISSION

Walter H. Pincus  
PRESIDENT

George Mauley  
COMMISSIONER

William Koehn  
COMMISSIONER