

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALVIN S. ORLINS and  
EDNA ORLINS

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, 1964 & :  
1965.

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 February, 1974, she served the within

Notice of Decision (or Determination) by (certified) mail upon ALVIN S. ORLINS and

EDNA ORLINS (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Mr. and Mrs. Alvin S. Orlins  
240 Thorndon Street  
South Orange, New Jersey

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

11th day of February, 1974.

*[Signature]*  
James A. Lawton

*[Signature]*  
Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALVIN S. ORLINS and  
EDNA ORLINS

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, 1964 &  
1965.

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 February, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon MILTON FRIEDMAN, ESQ.

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


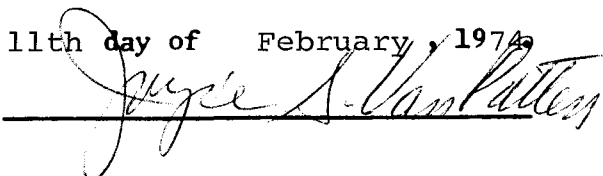
Milton Friedman, Esq.  
350 Fifth Avenue  
New York, New York

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

11th day of February, 1974



STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALVIN S. ORLINS and  
EDNA ORLINS

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, 1964 &  
1965.

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 February, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon BENJAMIN SCHREIBER

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Mr. Benjamin Schreiber  
212-38 16th Avenue  
Bayside, 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

11th day of February, 1974.

James S. Van Patten

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
BUILDING 9, ROOM 214A  
STATE CAMPUS  
ALBANY, N. Y. 12226

AREA CODE 518  
457-2655, 6, 7

STATE TAX COMMISSION  
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  
February 11, 1974

Mr. and Mrs. Alvin S. Orlins  
240 Thorndon Street  
South Orange, New Jersey

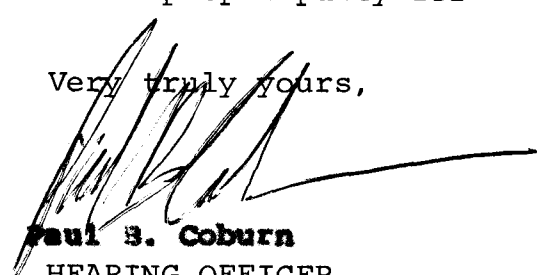
Dear Mr. and Mrs. Orlins:

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

Please take further notice that pursuant to  
Section(s) **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

## STATE TAX COMMISSION

In the Matter of the Petition :  
:  
of :  
:  
ALVIN S. ORLINS and :  
EDNA ORLINS :  
DECISION  
:  
for Redetermination of Deficiency or  
for Refund of Unincorporated Business :  
Tax under Article 23 of the Tax Law :  
for the Years 1963, 1964 and 1965. :

Petitioners, Alvin S. Orlins and Edna Orlins, have filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1963, 1964 and 1965. (File No. 32596006). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on February 27, 1973, at 9:40 A.M. Petitioners appeared by Milton Friedman, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

Were the services rendered by petitioner, Alvin S. Orlins, as an employee of Phil-Or Textile Shrinking Co., Inc. during the years 1963, 1964 and 1965 so interrelated and integrated with his activities in connection with his unincorporated business, Service Sponging Co., so as to constitute part of a business regularly carried on by him?

FINDINGS OF FACT

1. Petitioner, Alvin S. Orlins, filed New York State unincorporated business tax returns for the years 1963, 1964 and 1965. He omitted from business income on said returns, salary income received from Phil-Or Textile Shrinking Co., Inc. during said years. He listed his kind of business as "Textile Shrinking" on said returns.

2. On March 27, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Alvin S. Orlins and Edna Orlins, imposing unincorporated business tax upon the salary income received by petitioner, Alvin S. Orlins, from Phil-Or Textile Shrinking Co., Inc. during the years 1963, 1964 and 1965 upon the grounds that said income was business connected and accordingly issued a Notice of Deficiency in the sum of \$1,751.49.

3. Phil-Or Textile Shrinking Co., Inc. was engaged in the business of shrinking, examining, processing and finishing bolts of fabrics for the men's apparel trade during the years 1963, 1964 and 1965.

4. Petitioner, Alvin S. Orlins, was president and chief operating officer of Phil-Or Textile Shrinking Co., Inc. during the years 1963, 1964 and 1965. He received a salary from the corporation of \$16,800.00 in 1963, \$19,575.00 in 1964 and \$19,550.00 in 1965. Federal and New York State income taxes and social security tax were deducted from the salary paid to him. He owned 2/9 of the stock of the corporation. His brother

and sister owned the balance of the stock. The services rendered by him for the corporation consisted of acting as production manager, sales manager and chief executive. He devoted substantially all of his working time to his duties as an officer of said corporation.

5. Service Sponging Co. was engaged in the business of shrinking, examining, processing and finishing bolts of fabrics for the women's apparel trade during the years 1963, 1964 and 1965. It was an unincorporated business owned by petitioner, Alvin S. Orlins. Petitioner, however, did not actively participate in its business activities. The business was operated by Abraham E. Hulnick, pursuant to a written employment agreement between the company and Mr. Hulnick. He was employed by the company from 1944 until his death in 1966. He signed checks, serviced accounts, set prices and hired and fired personnel.

6. The factory in which Service Sponging Co. and Phil-Or Textile Shrinking Co., Inc. conducted their shrinking operations was located at 122-124 Fifth Avenue in New York City during the years 1963, 1964 and 1965. The plant occupied the fifth and sixth floors and basement of the building. The plant was operated on co-operative basis with other companies in the shrinking business, pursuant to a written agreement between the parties. Each month the expenses of operating the plant were charged to each company in direct proportion to its gross sales. However, each company solicited, serviced, billed and collected its own accounts.

7. The shrinking of fabrics for the men's wear industry was substantially different from the shrinking of fabrics for the ladies' wear industry during the years 1963, 1964 and 1965. The production phase of the former was far more difficult and critical and different shrinking processes were used.

CONCLUSIONS OF LAW

A. That the services rendered by petitioner, Alvin S. Orlins, as an officer of Phil-Or Textile Shrinking Co., Inc. during the years 1963, 1964 and 1965 were not so integrated and interrelated with his activities in connection with his unincorporated business, Service Sponging Co., so as to constitute part of a business regularly carried on by him and, therefore, the salary received by him as an officer of said corporation was exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

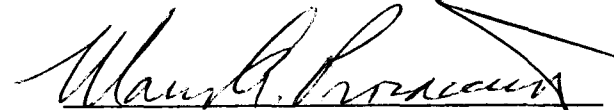
B. That the aforesaid activities of petitioner, Alvin S. Orlins, as an officer of Phil-Or Textile Shrinking Co., Inc. during the years 1963, 1964 and 1965 did not constitute the carrying on of an unincorporated business and his income derived therefrom was not subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.




C. That the petition of Alvin S. Orlins and Edna Orlins  
is granted and the Notice of Deficiency issued March 27, 1967,  
is cancelled.

DATED: Albany, New York  
February 11, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER