

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HARRY UNGARSOHN

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) 1963 and 1964.:

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 1st day of October, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon HARRY UNGARSOHN

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

Mr. Harry Ungarsohn
5 Beekman Street
New York, New York 10038

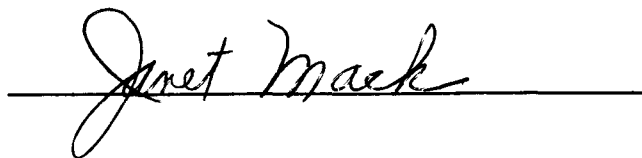
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

1st day of October, 1974.







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
October 1, 1974

Mr. Harry Ungarsohn
5 Beekman Street
New York, New York 10038

Dear Mr. Ungarsohn:

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,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HARRY UNGARSOHN	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1963 and 1964.	:	
	:	

Harry Ungarsohn filed a petition under section 689 of the Tax Law for a redetermination of deficiencies in unincorporated business tax under Article 23 of the Tax Law for the years 1963 and 1964. A hearing was duly held on December 12, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioner, was represented pro se, and Saul Heckelman, Esq., (James A. Scott, Esq., of counsel) represented the Income Tax Bureau. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner, Harry Ungarsohn, a certified shorthand reporter, is entitled to professional exemption from the unincorporated business tax pursuant to section 703(c) of the Tax Law.

FINDINGS OF FACT

1. Petitioner, Harry Ungarsohn and his wife, filed New York State income tax resident returns for the years 1963 and 1964. Petitioner, Harry Ungarsohn, filed New York State unincorporated business tax returns for said years.

2. Petitioner, Harry Ungarsohn, operates a reporting service known as "Stenotype Reporting Specialists". Its principle office is located at 150 Nassau Street, New York City. It also maintains mail drops and telephone answering services in Atlantic City, New Jersey; Philadelphia, Pennsylvania; Washington, D.C.; Atlanta, Georgia; and Boston, Massachusetts. Petitioner had no full-time employees in any of the above cities except New York.

3. Petitioner, Harry Ungarsohn, was a certified shorthand reporter. He did work for attorneys; state, local and Federal agencies; and for private business conventions. In addition to the traditional methods of reporting, he utilized tape recording for which he is chiefly known. He, personally, did as much of the stenographic reporting as he could. All transcribing was done by subcontract. He employed one or two secretaries, an office manager and one or two persons to do the taping. He withheld New York State, City and Federal income taxes, social security and unemployment insurance taxes from their salaries. Said employees were also covered by workman's compensation insurance. In some instances, he was forced to hire free-lance reporters to service his clients.

4. During 1963, petitioner, Harry Ungarsohn, had gross receipts of \$99,517.83; gross profit of \$54,869.77, and total compensation for reporting services of \$26,223.40; in 1964 he had gross receipts of \$111,451.04, gross profit of \$62,044.38 and total compensation for reporting services of \$30,388.67 as reported on his Schedules "C" for said years.

5. On March 13, 1967, the Income Tax Bureau issued a Statement of Audit Changes against the petitioner, Harry Ungarsohn, imposing unincorporated business tax for the year 1963 in the sum of \$515.34. On February 19, 1968, it issued a Statement of Audit Changes against him imposing unincorporated business tax for the year 1964 in the sum of \$765.30. Said taxes were imposed upon the grounds that less than 80% of the total income is derived from personal services actually rendered by the taxpayer. It accordingly issued notices of deficiency in said amounts.

CONCLUSIONS OF LAW

A. That since petitioner, Harry Ungarsohn, paid a sum of \$26,233.40 as compensation for reporting to "free-lance" reporters and had a gross profit of \$54,869.77, he has clearly failed to satisfy the 80% requirement imposed under section 703(c) of the Tax Law for the year 1963.


B. That since petitioner, Harry Ungarsohn, paid a sum of \$30,388.67 as compensation for reporting to "free-lance" reporters and had a gross profit of \$62,044.38, he has clearly failed to satisfy the 80% requirement imposed under section 703(c) of the Tax Law for the year 1964.


DECISION

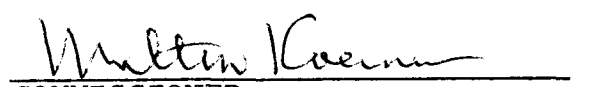
The petition is denied and the deficiency is affirmed together with such interest, if any, as may be due under section 689 of the Tax Law.

DATED: Albany, New York
October 1, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER