

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JAMES J. LYNCH

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business :
Taxes under Article (a) 23 of the
Tax Law for the Year(s) 1961 and 1962.:

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

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 21st day of May, 1975, she served the within
Notice of Decision ~~(or Determination)~~ by (certified) mail upon JAMES J. LYNCH

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

Mr. James J. Lynch
3005 Johnson Place
Wantagh, New York 11793

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)~~
~~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

21st day of May, 1975

James J. Van Patten

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JAMES J. LYNCH

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) 1961 and 1962:

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

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 21st day of May , 1975, she served the within

Notice of Decision ~~for the reason stated~~ by (certified) mail upon JOHN R. DUNNE, ESQ.

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

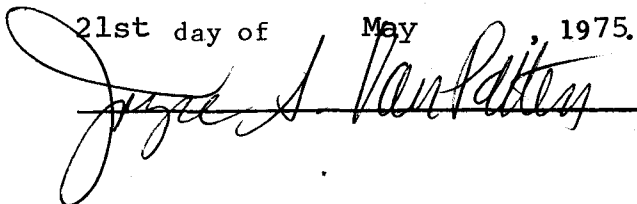
John R. Dunne, Esq.
Doran, Collieran, O'Hara,
Pollio & Dunne, P.C.
1461 Franklin Avenue

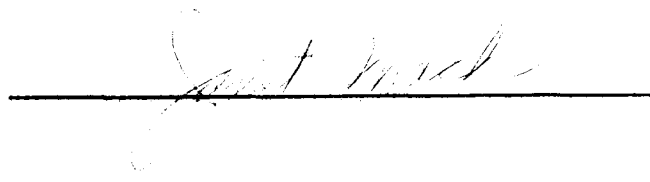
Garden City, New York 11530
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

21st day of May , 1975.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JAMES J. LYNCH

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article ~~80~~ 23 of the
Tax Law for the Year(s) 1961 and 1962.

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

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 21st day of May, 1975, she served the within
Notice of Decision ~~(or Determination)~~ by (certified) mail upon IRA PAUL KLEIN, ESQ.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
Ira Paul Klein, Esq.
wrapper addressed as follows: Doran, Colleran, O'Hara,
Pollio & Dunne, P.C.
1461 Franklin Avenue
Garden City, New York 11530
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

21st day of May, 1975.

James J. Lynch



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
~~James E. Tully, Jr.~~
~~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
May 21, 1975

Mr. James J. Lynch
3005 Johnson Place
Wantagh, New York 11793

Dear Mr. Lynch:

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

Please take further notice that pursuant to
Section (37 **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	:	
JAMES J. LYNCH	:	DECISION
for a Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business Tax	:	
under Article 23 of the Tax Law for the	:	
Years 1961 and 1962.	:	

James J. Lynch, 3005 Johnson Place, Wantagh, New York 11793, filed a petition for the redetermination of a deficiency in unincorporated business tax under Article 23 of the Tax Law for the years 1961 and 1962. (File No. 2-3430040.)

Said deficiency was asserted by notice issued January 18, 1965, under File No. 2-3430040 and is in the amount of \$525.98 plus interest of \$70.38 for a total of \$596.36.

In lieu of a hearing, petitioner submits his case to the Commission on the file of the Income Tax Bureau. Petitioner is represented by John R. Dunne, Esq. and Ira Paul Klein, Esq. of Doran, Colleran, O'Hara, Pollio & Dunne, P.C. of Garden City, New York.

The said file has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner, an industrial security consultant, is engaged in a profession and is, therefore, exempt from the unincorporated business tax.

FINDINGS OF FACT

1. Petitioner describes himself on his tax return as a private investigator. He lists his address as 3005 Johnson Place, Wantagh, New York.

2. Petitioner describes his duties as those of an industrial security consultant. His occupational duties consist almost entirely of setting up security programs for corporations and defense contractors. This involves the consideration of the following factors:

- (a) Investigation (Applicant, Employee and Case).
- (b) Fire prevention and protection.
- (c) Prevention and Control of thefts, fraud and other immoral dishonest, or unlawful acts.
- (d) Safeguarding of information (Private, Proprietary and Classified).
- (e) Guard Controls including:
 - Control of Entrance and Exit,
 - Enforcement of rules and regulations, and
 - Maintaining order.
- (f) Emergency Planning and Disaster Control (Fire Explosion, natural disasters, strikes, demonstrations, sabotage, enemy attack).
- (g) Security Indoctrination and Training all levels of the organization.
- (h) Administration of Government Security Laws, regulations and requirements, so as to assure effective and complete compliance.

3. Petitioner had studied law and had received an L.L.B.

from New York Law School, after which he was with the Federal Bureau of Investigation for twelve years. He was for four years the Supervisor of Field Investigation for the New York Waterfront Commission. He has attended the Industrial Security School of the FBI and the School of Security Plans and Methods of the New York City Police Department. He has been an instructor on industrial security subjects for the Long Island State Parkway Police, the Western Electric Company and Rheingold Breweries, Inc.

4. Petitioner is a member of the American Society for Industrial Security.

5. Petitioner is licensed under Article 7 of the General Business Law, as a private investigator. Pursuant to regulations under that Law, he must refer to himself only as a private investigator and not as a consultant.

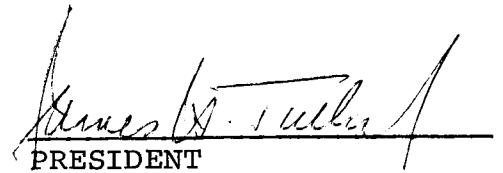
CONCLUSIONS OF LAW

The type of work in which petitioner is engaged does not require a high degree of academic training as distinguished from work experience. He is not a professional.

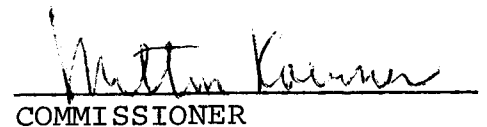
The deficiency is correct and is due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
May 21, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER