

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MICHAEL J. OXLEY

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 ~~(8)~~ 23 of the  
Tax Law for the Year(s) 1969 and 1970.:

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 30th day of May , 1975, she served the within

Notice of Decision (~~xx Tax Commission~~) by (certified) mail upon Michael J. Oxley

(~~representative of~~) the petitioner in the within

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

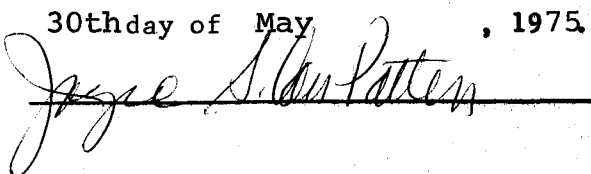
wrapper addressed as follows: Mr. Michael J. Oxley  
1618 East Aloha Street  
Seattle, Washington 98112

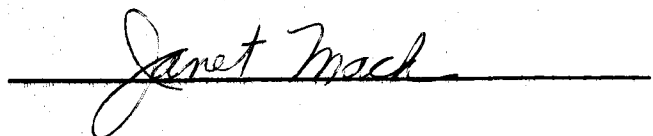
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~  
~~xx~~) 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

30th day of May , 1975.

  
Joyce S. Patterson

  
Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION  
**James H. Tully, Jr.**  
~~XXXXXXXXXXXX~~, 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 30, 1975**

**Mr. Michael J. Oxley**  
**1618 East Aloha Street**  
**Seattle, Washington 98112**

**Dear Mr. Oxley:**

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

Please take further notice that pursuant to  
Section (a) **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,

*L. Robert Leisner*  
**L. Robert Leisner**  
HEARING OFFICER

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
MICHAEL J. OXLEY	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1969 and 1970.	:	

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Petitioner, Michael J. Oxley, 1618 East Aloha Street, Seattle, Washington 98112, petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the years 1969 and 1970.

The case was submitted for decision and referred to L. Robert Leisner, Hearing Officer. The taxpayer acted on his own behalf and the submission was on all of the information contained in the file of the Income Tax Bureau.

ISSUE

Was the taxpayer exempt as an employee from the unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Michael J. Oxley, timely filed New York State income tax returns for the years 1969 and 1970.

2. A Notice of Determination of deficiencies in unincorporated business taxes for the years 1969 and 1970 was issued on May 20, 1974, against the taxpayer under File No. 0-56550149.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. The taxpayer for the years 1968 and 1969 worked for COAP Systems, Inc., and in 1969 for CRC Computer Radix Corporation and had social security, Federal and state taxes withheld from his wages from those companies.

5. For the year 1969, the taxpayer also received \$12,444.00 from business income and listed this as such on page 2, schedule 4(a) of his return. There was no withholding of social security, Federal or state withholding taxes, and he received and reported in like manner as business income \$30,372.00 with no withholding of taxes.

6. The taxpayer alleges, however; that such payments were wages by CRC Computer Radix Corporation to an employee; that Computer Radix Corporation subcontracted his services to IBM, East Fishkill, New York; that he performed his duties at regular hours of work on IBM premises and that he believes that he was an employee.

7. The only evidence on this score, however, are the returns which list the \$12,444.00 for 1969 and \$30,372.00 for 1970 as business income and which items have no social security, state or Federal withholding taxes.

8. There is no evidence that the taxpayer was an employee for \$12,444.00 in 1969 or for \$30,372.00 for 1970. On the entire record the evidence is that these items were, in fact, business income under a subcontract, and they were returned as such on the personal income tax return.

9. The taxpayer acted in good faith.

CONCLUSIONS OF LAW

A. The taxpayer was subject to the unincorporated business tax as an independent subcontractor during the years in issue.

B. The taxpayer acted in good faith, the penalties are cancelled.

C. The taxpayer's petition is otherwise denied and the deficiencies in tax are sustained.

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

DATED: Albany, New York

May 30, 1975

STATE TAX COMMISSION

*James G. Sullivan*  
PRESIDENT

*William M. Mawley*  
COMMISSIONER

*William Korman*  
COMMISSIONER