

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALEXANDER S. & JANICE SINCLAIR

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) 1962, 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 5th day of December , 1975, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Alexander S. &  
Janice Sinclair ~~(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. Alexander S. Sinclair  
RD #1, Bruno Road  
Elnora, New York 12065

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 ~~XXXXXXXXXXXX~~  
~~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

5th day of December , 1975.

Mary Gaff

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

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of

ALEXANDER S. & JANICE SINCLAIR

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For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business:  
Taxes under Article 23 of the  
Tax Law for the Year(s) 1962, 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 5th day of December, 1975, she served the within  
Notice of Decision ~~(or Determination)~~ by (certified) mail upon Joseph Cohen, C.P.A.

, (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Joseph Cohen, C.P.A.  
1510 Central Avenue  
Albany, New York 12205

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

5th day of December, 1975.

Mary Groff

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

PAUL GREENBERG  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT  
MR. COBURN  
MR. LEISNER  
(518) ~~323333~~

457-3850

DATED: Albany, New York  
December 5, 1975

Mr. and Mrs. Alexander S. Sinclair  
RD #1, Bruno Road  
Elnora, New York 12065

Dear Mr. and Mrs. Sinclair:

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,

*L. Robert Leisner*  
**L. Robert Leisner**

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 Petition  
of  
ALEXANDER S. & JANICE SINCLAIR  
for a Redetermination of a Deficiency  
or for Refund of Unincorporated Business  
Taxes under Article 23 of the Tax Law  
for the Years 1962, 1963 and 1964.

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DECISION

Alexander S. and Janice Sinclair petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the years 1962, 1963 and 1964.

A formal hearing was held at the offices of the State Tax Commission, Albany, New York on January 27, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Joseph Cohen, C.P.A. and the Income Tax Bureau was represented by Edward H. Best, Esq., (Solomon Sies, Esq., of Counsel).

ISSUE

Were the taxpayers liable for unincorporated business tax on income of Alexander S. Sinclair, as a golf professional from the Mohawk Golf Club, and from the operation of a golf shop at the golf club?

FINDINGS OF FACT

1. Petitioners, Alexander S. and Janice Sinclair, timely filed New York income tax returns for the years 1962, 1963 and 1964.
2. A Notice of Determination of deficiency in unincorporated business taxes for the years 1962, 1963 and 1964 was issued on August 15, 1969, against the taxpayers under File No. 26175683.
3. The taxpayer petitioned for redetermination of the deficiencies.

4. Alexander Sinclair performed services as a golf professional including duties attending to arrangements of tournaments, collection of green fees from nonmembers and supervision of caddies, among many other duties at the country club, and received an annual salary payable in ten monthly installments each year.

5. Alexander Sinclair also received income derived from the operation of the golf shop, which he and Janet Sinclair operated, and from the sale of merchandise therein and controlled charges made for the storage of golf clubs, the storage of golf carts, and the cleaning of golf clubs. He also received compensation from individuals for golf lessons at an hourly rate established by the club. The hours for the shop were also established by the club. In the event of disability, illness or incapacity for over three successive months, the agreement provided that the contract could be terminated. The Mohawk Golf Club and the taxpayer signed a written contract each year.

6. The Mohawk Golf Club furnished the operators, the place and the property, and facilities where the taxpayer was to perform his services.

7. Alexander Sinclair was subject to the direction and control of the Mohawk Golf Club.

#### CONCLUSIONS OF LAW

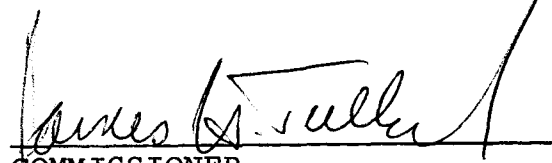
A. Alexander Sinclair was employed as a golf professional by the Mohawk Golf Club and his annual salary was not subject to unincorporated business tax.

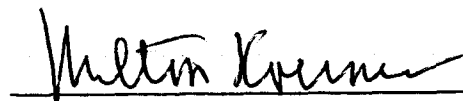
B. The income of the petitioners from the operation of the golf shop during the years in issue, was not sufficient to be taxable under the Unincorporated Business Tax Law.

C. The petition of the taxpayers is sustained. It is determined that there are no deficiencies in unincorporated business tax against the taxpayers for the years in issue.

DATED: Albany, New York  
December 5, 1975

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

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COMMISSIONER