

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE T. & RUTH M. BECHTEL

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article(s) 23 of the :
Tax Law for the Year(s) ~~or Period(s)~~ :
1970, 1971 and 1972.

State of New York
County of Albany

Catherine Steele, 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 28th day of September, 1976, she served the within Notice of Decision by (certified) mail upon George T. & Ruth M. Bechtel (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. George T. Bechtel
1477 Wyoming Avenue
Schenectady, New York 12308
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 Postal Service within the State of New York.

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

28th day of September, 1976.

Catherine Steele

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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AFFIDAVIT OF MAILING

GEORGE T. & RUTH M. BECHTEL

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Unincorporated Business
Taxes under Article (23) of the
Tax Law for the Year(s) ~~or Period(s)~~
1970, 1971 and 1972.

State of New York
County of Albany

Catherine Steele, 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 28th day of September, 1976, she served the within
Notice of Decision by (certified) mail upon Sidney Cohen, 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: Sidney Cohen, P.A.
29 Euclid Avenue
Delmar, New York 12054

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 Postal Service within the State of New York.

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

28th day of September, 1976

Catherine Steele

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

September 28, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. George T. Bechtel
1477 Wyoming Avenue
Schenectady, New York 12308

Dear Mr. & Mrs. Bechtel:

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

Please take further notice that pursuant to
Section ~~81~~ **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.

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. They
will be referred to the proper party for reply.

Very truly yours,
Frank J. Puccia
Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
GEORGE T. & RUTH M. BECHTEL :
for a Redetermination of a Deficiency or :
for Refund of Unincorporated Business :
Tax under Article 23 of the Tax Law for :
the Years 1970, 1971 and 1972. :
DECISION

Petitioners, George T. and Ruth M. Bechtel, 1477 Wyoming Avenue, Schenectady, New York 12308, filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1970, 1971 and 1972. (File No. 2-25670170). A small claims hearing was held before Harry Huebsch, Hearing Officer, on June 17, 1976, at 2:45 P.M. at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York. Petitioner, George T. Bechtel, appeared with his representative, Sidney Cohen, P.A. The Income Tax Bureau appeared by Peter J. Crotty, Esq., (Solomon Sies, Esq. of counsel).

ISSUE

Whether Ruth M. Bechtel was a bona fide employee of George T. Bechtel and, if so, whether her compensation was equitable and reasonable.

FINDINGS OF FACT

1. Petitioners, George T. and Ruth M. Bechtel, timely filed New York State resident returns for 1970, 1971 and 1972. For 1970 and 1971, joint returns on Form IT-201 were filed. For 1972, separate returns on Form IT-208 were filed. No unincorporated business tax returns were filed for any year.

2. On November 16, 1973 amended returns were filed for the aforementioned years. All were on Form IT-208 with unincorporated business tax Forms IT-202 attached. The unincorporated business tax returns showed wages paid to the wife by the husband in the amounts of \$5,000.00 each year for 1970 and 1971 and \$3,000.00 for 1972. The husband's income was reduced by these same amounts.

3. On audit, the Income Tax Bureau disallowed the wife's wages as an expense for unincorporated business tax purposes and a Notice of Deficiency dated February 25, 1974, was issued for a total including interest of \$993.76.

4. Petitioner, George T. Bechtel, was an independent manufacturer's representative. He covered the area north of Poughkeepsie and west to Buffalo in New York State. He was required to travel often. When he was away, his spouse answered phone calls and performed other miscellaneous duties associated with the operation of Mr. Bechtel's business. The wages paid Mrs. Bechtel for these services were \$100.00 per week for 1970 and 1971 and \$60.00 per week for 1972.

5. Petitioner, George T. Bechtel's net business income after payment of wages to wife was \$9,116.81 in 1970, \$9,265.69 in 1971 and \$7,436.05 in 1972.

6. Petitioner, Ruth M. Bechtel, held part-time jobs outside the home during these years. She earned \$2,729.00 in 1970, \$2,373.00 in 1971 and \$3,825.00 in 1972, from this employment.

7. Petitioner, George T. Bechtel, did not report any compensation paid to his wife on Federal schedule C for any of the years in question nor did he file amended Federal returns to include her wages.

8. Petitioner, George T. Bechtel, did not issue a withholding tax statement to his wife.

9. Petitioner, George T. Bechtel, introduced no evidence that any wages were actually paid to Ruth M. Bechtel.

CONCLUSIONS OF LAW

A. That the compensation claims paid for the services actually rendered was not reasonable as required by section 162(1) of the Internal Revenue Code, Regulation section 1.162-7.

B. That petitioners failed to carry the burden of proof as required by section 689(e) of the Tax Law that any wages were in fact paid or that the spouse was a bona fide employee of the husband.

C. That the petition of George T. and Ruth M. Bechtel is denied and the Notice of Deficiency is sustained.

DATED: Albany, New York
September 28, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER