

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SOL NEGRIN

AFFIDAVIT OF MAILING

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) ~~XXXXXX~~ 1968. :

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 4th day of August, 1976, she served the within Notice of Decision by (certified) mail upon Sol Negrin ~~representative of~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Sol Negrin
873 Custer Street
Valley Stream, L.I., New York
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~~ ~~XXXXXX~~ 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

4th day of August, 1976

Janet Mack

Catherine Steele

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SOL NEGRIN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article ~~23~~ 23 of the :
Tax Law for the Year ~~1967~~ 1968. :

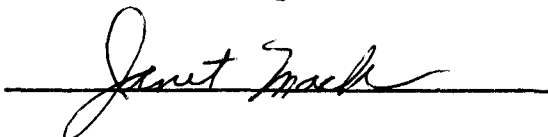
State of New York
County of Albany

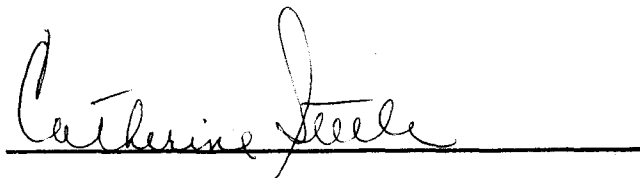
Catherine Steele, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 4th day of August, 1976, she served the within Notice of Decision by (certified) mail upon Martin A. Litwack, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Martin A. Litwack, Esq.
801 Second Avenue
New York, New York 10017
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

4th day of August, 1976.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

August 4, 1976

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

✓
Sol Negrin
873 Custer Street
Valley Stream, L.I., New York

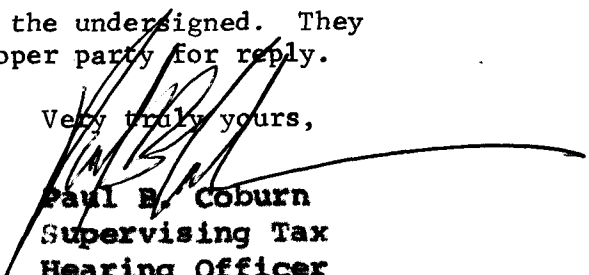
Dear Mr. Negrin:

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

Please take further notice that pursuant to
Section ~~701~~ **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,


Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
SOL NEGRIN	:	DECISION
	:	
for Redetermination of a Deficiency	:	
or for Refund of Unincorporated	:	
Business Tax under Article 23 of	:	
the Tax Law for the Year 1968.	:	

Petitioner, Sol Negrin, residing at 873 Custer Street, Valley Stream, L.I., New York, has filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1968. (File No. 814512304). A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on February 25, 1976. Petitioner appeared by Martin A. Litwack, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Solomon Sies, of counsel).

ISSUE

Was the income of the petitioner, Sol Negrin, received as a cinematographer and a free lance movie cameraman, subject to the unincorporated business tax for the year 1968.

FINDINGS OF FACT

1. Petitioner, Sol Negrin, timely filed a New York State income tax return for the year 1968. He did not file New York State unincorporated business tax return for said year.

2. On February 22, 1971, the Income Tax Bureau issued a Statement of Audit Changes against the petitioner, Sol Negrin, imposing unincorporated business tax for the year 1968, on the grounds that his activities constituted the carrying on of an unincorporated business. Accordingly, the Income Tax Bureau issued a Notice of Deficiency for 1968 in the sum of \$2,245.97 plus interest of \$249.64 for a total of \$2,495.61.

3. Petitioner, Sol Negrin, first studied motion picture photography at the High School of Industrial Arts in New York, New York, and also worked in the field to gain experience. He now has twenty-three years experience as a motion picture cameraman. He has a full length motion picture credit for the year 1968 entitled "The Lost Man". In subsequent years, credits earned him three Emmy award nominations. In the film credits he was accredited as a director of photography. This required background experience in lighting, in photographic techniques, in background layouts and in artistic endeavor. He was required to aid the film director and the actors. He had to take instruction and received a certificate in motion picture video tape when it was perfected in 1959. For some twenty-four years he was a union

member of Local 644, International Photographers of Motion Picture Industries, with a class A status, which requires 10 years of various degrees of experience, and has served as president of the local in 1974. He is also a member of the American Society of Cinematographers, and the Society of Motion Picture and Television Engineers. In 1946 and 1947 he instructed in motion picture photography at the City College of New York. He has no agent but solicits jobs for himself.

4. During the year 1968, Federal and New York State income taxes were withheld from the compensation received by petitioner, Sol Negrin, from Filmex, Inc. of New York, New York and only Federal income taxes were withheld from his compensation by Universal City Studios Inc., of Universal City, California. No substantial evidence was submitted to prove that he was an employee of these firms.

5. That during the year 1968, petitioner, Sol Negrin's income as a cinematographer and free lance movie cameraman was derived from personal services rendered. Capital was not a material income producing factor.

CONCLUSIONS OF LAW

A. That the activities of petitioner, Sol Negrin, as a cinematographer and a free lance movie cameraman, during the year 1968, although requiring special knowledge and experience, did not constitute the practice of a profession

exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703 (c) of the Tax Law.

B. That the aforesaid activities of the petitioner, Sol Negrin, during the year 1968 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law. He was not an employee during the year in issue.

C. That the petition of Sol Negrin is denied and the Notice of Deficiency issued February 22, 1971, is sustained.

DATED: Albany, New York
August 4, 1976

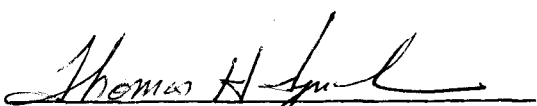
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER