

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SAM URZETTA

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) ~~xxx 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 15th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Sam Urzetta

~~(representative of the)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Sam Urzetta
512 West Spruce Street
East Rochester, New York 14445

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

15th day of September, 1976

Catherine Steele

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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1970, 1971 and 1972.

State of New York
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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 15th day of September, 1976, she served the within
Notice of Decision by (certified) mail upon Irving Guttenberg, CPA

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Irving Guttenberg, CPA
442 Powers Building
Rochester, New York 14614

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

15th day of September, 1976.

Catherine Steele

Janet Trach



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 15, 1976

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

Mr. Sam Ursetta
512 West Spruce Street
East Rochester, New York 14445

Dear Mr. Ursetta:

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

Please take further notice that pursuant to
Section **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	:	
SAM URZETTA	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1970, 1971 and 1972.	:	

Petitioner, Sam Urzetta, 512 West Spruce Street, East Rochester, New York 14445, petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the years 1970, 1971 and 1972.

A formal hearing was held at the offices of the State Tax Commission, Rochester, New York, on May 23, 1975 before L. Robert Leisner, Hearing Officer. The taxpayer appeared by Irving Guttenberg, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Was the salary income received by petitioner, Sam Urzetta, during the years 1970, 1971 and 1972 from Country Club of Rochester so interrelated with his unincorporated business as to be subject to the unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Sam Urzetta, timely filed New York State income and unincorporated business tax returns for the years 1970, 1971 and 1972.

2. A Notice of Deficiency in unincorporated business taxes for the years 1970, 1971 and 1972 was issued on April 12, 1974 against the taxpayer under File No. 2-22008276.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. The Income Tax Bureau's Statement of Audit Changes imposed additional unincorporated business tax upon the taxpayer's salary income from the Country Club of Rochester on the grounds that the income was interrelated and interconnected with his unincorporated business.

5. Petitioner, Sam Urzetta, is a graduate of Rochester High School and of St. Bonaventure University with a Bachelor of Arts degree. He was on the St. Bonaventure golf team for four years and won many golf tournaments. In 1946, he won the New York State amateur golf championship and in 1950 the National Amateur Championship. He was a member of the Walker Cup Team two times in international competition against Great Britain. He played in the Masters Tournament four times at Augusta,

Georgia, the U. S. Open three or four times and the P.G.A two or three times. In 1955, Sam Urzetta was hired as Associate Pro for 1955 and 1956 for the Country Club of Rochester. Thereafter he became the Head Pro of the Club.

6. Petitioner, Sam Urzetta, had an employment contract with the Country Club of Rochester during all the years in issue. His duties included overseeing playing operations and policing of the golf course, directing golf tournaments, conducting junior members' golf programs, acting as a public relations representative, and consulting on course changes and improvements. The skill involved in this activity was essentially that of a golfer.

7. Petitioner, Sam Urzetta, received a salary and was listed on the payroll records as an employee of the Country Club of Rochester. Payroll taxes were deducted from his salary checks. Petitioner was covered by the Wage and Hour Law in Private Clubs as amended by the Fair Labor Standards Act of 1974. The Country Club had its own employer identification number. There is no exclusion of golf professionals from the Act.

8. The golf pro shop at Country Club of Rochester had a full-time employee and several part-time employees. The shop sold golf equipment, accessories and supplies, provided cleaning and storage of golf clubs, and provided golf lessons. The golf

pro shop kept separate books, had a separate bank account and made bank loans for merchandise which were recorded on its books. It had a separate employer identification number for the taxpayer. The taxpayer always filed separate unincorporated business tax returns for the golf pro shop. The skills involved in this activity were essentially merchandising skills.

9. The Country Club of Rochester and the golf pro shop were separate concerns.

CONCLUSIONS OF LAW

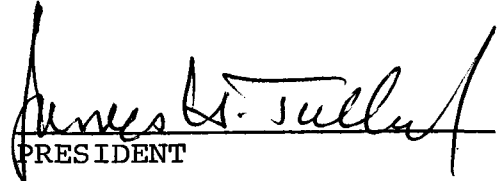
A. That the services of the petitioner, Sam Urzetta, as an employee of the Country Club of Rochester were not so integrated and interrelated with his activities in the golf pro shop business as to constitute part of the business regularly carried on by him and his salary as an employee of the Country Club of Rochester was exempt from the unincorporated business tax. Richmond Howell, Jr., STC April 26, 1976. Alexander Sinclair, STC December 5, 1975.

B. That the activities of the taxpayer on behalf of the Country Club of Rochester during the years 1970, 1971 and 1972 did not constitute the carrying on of an unincorporated business and his income derived therefrom was not subject to the unincorporated business tax under section 703 of the Tax Law.

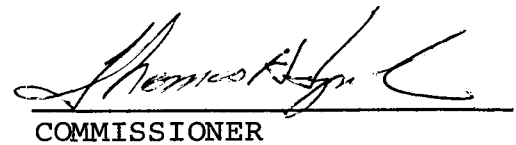
C. That the petition of Sam Urzetta is granted and the Notice of Deficiency issued on April 12, 1974 is cancelled.

DATED: Albany, New York
September 15, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER