

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MYRON COHEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article (30) 23 of the :
Tax Law for the Year(s) ~~XXXXXX~~ :
1968, 1969 and 1970

State of New York
County of Albany

Marsina Donnini, 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 24 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Myron Cohen ~~XXXXXXXXXXXXXXXXXXXX~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Myron Cohen
2154 East 63rd Street
Brooklyn, New York 11234 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 ~~XXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXX~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~XXXXXXXXXXXXXXXXXXXX~~ ~~(representative of the)~~ petitioner.

Sworn to before me this

24th day of August, 1977.

Marsina Donnini

Janet Mach

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MYRON COHEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article ~~(8)~~ 23 of the :
Tax Law for the Year(s) ~~1968, 1969 and 1970~~ :
1968, 1969 and 1970.

State of New York
County of Albany

Marsina Donnini, 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 24 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Herman J. Soloway, 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: Herman J. Soloway, C.P.A.
515 Madison Avenue
New York, New York 10022

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

24th day of August, 1977.

Marsina Donnini

Janet Buck



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

August 24, 1977

Mr. Myron Cohen
2154 East 63rd Street
Brooklyn, New York 11234

Dear Mr. Cohen:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **722** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywaty
Joseph Chyrywaty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
MYRON COHEN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1968, 1969 and 1970.	:	

Petitioner, Myron Cohen, residing at 2154 East 63rd Street, Brooklyn, New York 11234, has filed a petition for redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1968, 1969 and 1970 (File No. 13123).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on February 2, 1977 at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Herman J. Soloway, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

ISSUE

Whether the activities performed by the petitioner, Myron Cohen, as an insurance salesman for the years 1968, 1969 and 1970 qualifies him for a professional exemption under section 703(c) of the Tax Law.

FINDINGS OF FACT and CONCLUSIONS OF LAW

1. Petitioner was a licensed insurance broker during the years 1968, 1969 and 1970 and earned commissions from numerous insurance companies.

2. Petitioner was a graduate of Long Island University. He had also attended Brooklyn College for the purpose of taking courses which were required to qualify him for an insurance broker's license.

3. Petitioner developed programs of insurance coverage for clients by inspecting books and records and the premises involved.

4. Petitioner has no employees; capital was not a material income producing factor, and more than 80% of his income was derived from services rendered by the petitioner.

5. That the activities of the petitioner, Myron Cohen, as an insurance broker 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.

6. That the aforesaid activities of petitioner, Myron Cohen, during the years 1968, 1969 and 1970 constituted the carrying on of an unincorporated business in accordance with the meaning and intent of section 703 of the Tax Law.

7. The petition of Myron Cohen is denied and the Notice of Deficiency in the sum of \$2,631.45 issued on August 27, 1973 is sustained.

DATED: Albany, New York
August 24, 1977

STATE TAX COMMISSION


PRESIDENT
COMMISSIONER
COMMISSIONER