

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LELAND S. LIANG

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article ~~(XX)~~ 23 of the :
Tax Law for the Year(s) ~~XXXXXX~~ :
1968 through 1972.

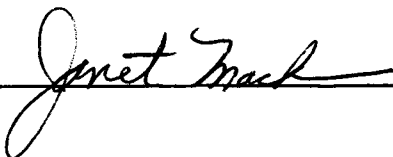
State of New York
County of Albany

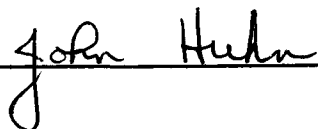
John Huhn , being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 25th day of November , 1977 , ~~he~~ served the within
Notice of Decision by (certified) mail upon Leland S.
Liang ~~(XXXXXXXXXXXX)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Leland S. Liang
2 Washington Square
Larchmont, New York 10538
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 ~~(XXXXXXXXXXXX)~~
~~XXXXXX~~ petitioner herein and that the address set forth on said wrapper is the
last known address of the ~~(XXXXXXXXXXXX)~~ petitioner.

Sworn to before me this

25th day of November , 1977





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LELAND S. LIANG

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) ~~1968 through 1972~~ :
1968 through 1972.

State of New York
County of Albany

John Huhn

, being duly sworn, deposes and says that

He is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 25th day of November , 1977, he served the within

Notice of Decision by (certified) mail upon Mortimer D.

Gould (representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

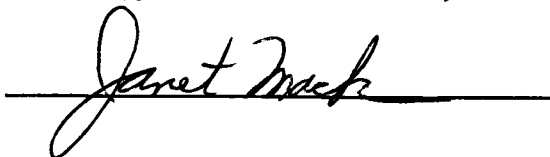
as follows: Mr. Mortimer D. Gould
333 West 57 Street
New York, New York 10019

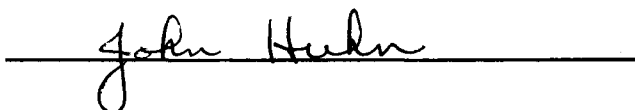
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

25th day of November , 1977.







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

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

November 25, 1977

Leland S. Liang
2 Washington Square
Larchmont, New York 10538

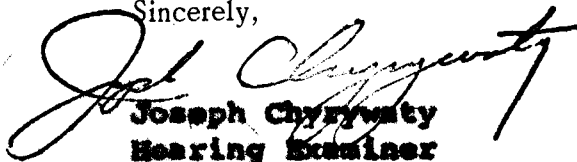
Dear Mr. Liang:

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 **(5) 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 Chervinsky
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LELAND S. LIANG	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business Tax	:	
under Article 23 of the Tax Law for the	:	
Years 1968 through 1972.	:	

Petitioner, Leland S. Liang, residing at 2 Washington Square, Larchmont, New York 10538, 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 1968, 1969, 1970, 1971 and 1972 (File No. 10819).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 26, 1977 at 10:45 A.M. The petitioner appeared by Mortimer D. Gould. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUES

I. Whether petitioner, Leland S. Liang's activities as a marketing consultant during the years 1968 through 1972, constituted the practice of a profession within the meaning and intent of section 703(c) of the Tax Law.

II. Whether petitioner was entitled to reduce the business income he reported on the New York State combined income tax returns he filed with his wife for the years 1968, 1969 and 1970, by amounts claimed as compensation for services rendered by his wife.

FINDINGS OF FACT

1. Petitioner and his wife filed New York State combined resident income tax returns (IT-208) for the years 1968, 1969, 1970 and 1972. They filed a joint New York State resident income tax return (IT-201) for the year 1971. Petitioner did not file New York State unincorporated business tax returns for said years.

2. During the years 1968 through 1972, petitioner was an adjunct professor of marketing at the City University of New York. In addition, petitioner was a moderator of lectures on behalf of textile organizations and was a marketing and textile consultant.

3. On the New York State combined income tax returns that petitioner filed with his wife for the years 1968, 1969 and 1970, a portion of the income he received during said years from lectures and consultation services was claimed by his wife upon the grounds that it was compensation to her for services rendered.

4. On October 27, 1975, the Income Tax Bureau issued a Notice of Deficiency against petitioner in the sum of \$2,853.30, upon the grounds that the income he received from lectures and consultation services during the years 1968 through 1972 was subject to unincorporated business tax. For the purpose of computing net income from

business, the Income Tax Bureau increased the business income reported by petitioner for the years 1968, 1969 and 1970 to the extent of \$6,000.00, \$6,000.00 and \$5,509.00 respectively, to reflect the amounts which petitioner contended were compensation to his wife for her services and which she reported as business income.

5. The lecturing and consulting services performed by petitioner during the years 1968 through 1972 were on his own behalf and were unrelated to his employment as an adjunct professor of marketing at the City University of New York.

6. Petitioner has a Master's degree in business administration and a Doctoral degree in another field.

7. Petitioner contended that his activities as a moderator of lectures and as a marketing and textile consultant constituted the carrying on of a profession and that as such, the income derived therefrom was not subject to unincorporated business tax.

8. Petitioner contended that the Income Tax Bureau erroneously increased the business income he reported for the years 1968, 1969 and 1970 by the amounts reported as his wife's business income, since such amounts represented compensation which he paid to his wife for services rendered. He presented no evidence in support of his contention.

CONCLUSIONS OF LAW

A. That although petitioner's activities as a moderator of lectures and as a marketing and textile consultant required

considerable expertise and an extensive educational background, said activities did not constitute the carrying on of a profession within the meaning and intent of section 703(c) of the Tax Law.

B. That petitioner's activities as a moderator of lectures and as marketing and textile consultant during the years 1968 through 1972 constitute the carrying on of an unincorporated business within the meaning and intent of section 703 of the Tax Law, and that as such, the income derived therefrom is subject to unincorporated business tax.

C. That the petitioner did not sustain the burden of proof necessary to substantiate that the amounts of \$6,000.00, \$6,000.00 and \$5,509.00 which he claimed as compensation to his wife for the years 1968, 1969 and 1970, respectively, were ordinary and necessary expenses, or that he actually paid said amounts to his wife. Therefore, these amounts may not be deducted from reported business income.

D. That the petition of Leland S. Liang is denied and the Notice of Deficiency issued on October 27, 1975 is sustained, together with such interest as may be lawfully due.

DATED: Albany, New York

November 25, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER