

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
DONALD MARKS

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, 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 22 day of July, 1977, she served the within Notice of Decision by (certified) mail upon Donald Marks ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Donald Marks
181 East 73rd Street
New York, New York 10021
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

22 day of July, 1977

Marsina Donnini

Janet Back

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DONALD MARKS

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)~~ :
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 22 day of July, 1977, she served the within
Notice of Decision by (certified) mail upon Sidney Weiss, CPA

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Sidney Weiss, CPA
61 Broadway
New York, New York 10006
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

22 day of July, 1977.

Marsina Donnini

Janet Mack



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

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

July 22, 1977

Mr. Donald Marks
181 East 73rd Street
New York, New York 10021

Dear Mr. Marks:

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 Chyrywat
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
DONALD MARKS	:	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, Donald Marks, residing at 181 East 73rd Street, New York, New York 10021, 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. 13294).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on October 21, 1976, at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Sidney Weiss, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin A. Levy, Esq., of counsel).

ISSUE

Whether the petitioner's income derived from his activities as a photographer is subject to the unincorporated business tax.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Donald Marks, is a fifty-percent shareholder and a corporate officer of Camera Group, Inc., a New York State corporation involved in the business of commercial photography.

2. In addition to his position as president of Camera Group, Inc., petitioner performed services as a photographer on behalf of the corporation.

3. As an executive corporate officer, and photographer, petitioner was compensated for his services according to his own financial needs, and according to the financial ability of the corporation to do so.

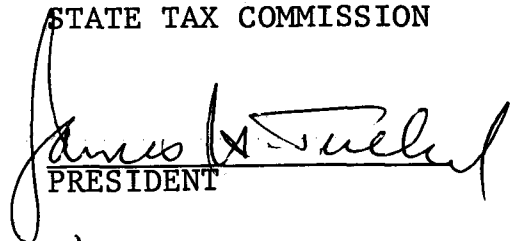
4. Petitioner's compensation during the years 1968, 1969 and 1970 was derived entirely from his services performed on behalf of the corporation. He did not represent any other firms, and he never performed services on behalf of himself as a different business entity.

5. That the petitioner, Donald Marks, is a corporate officer and employee of Camera Group, Inc., and that the income derived therefrom is exempt from the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

6. That the petition of Donald Marks is granted and the Notice of Deficiency issued April 11, 1975 is cancelled.

DATED: Albany, New York
July 22, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER