

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HENRY NEWMAN

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) ~~xxxPeriod(s)~~ :
1970, 1971 and 1972

State of New York
County of Albany

Bruce Batchelor, 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 7th day of June, 1977, he served the within
Decision by (~~certified~~) mail upon Henry Newman
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr Henry Newman
Croton Dam Road
Ossining, NY 10562
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

7th day of June, 1977

Bruce Batchelor

Just Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

June 7, 1977

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-1723**

Mr. Henry Newman
Croton Dam Road
Ossining, NY 10562

Dear Mr. Newman:

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,

Enc.

Frank J. Puccia

cc: ~~XXXXXXXXXXXXXXXXXXXX~~ **Supervisor of**
Small Claims Hearings

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HENRY NEWMAN	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1970, 1971 and 1972.	:	

Petitioner, Henry Newman, residing at Croton Dam Road, Ossining, New York 10562, filed a petition for redetermination of deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1970, 1971 and 1972. (File No. 12283).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 24, 1977 at 1:15 P.M. Petitioner appeared pro se and by Howard Dragutsky, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Andrew Haber, Esq. of counsel).

ISSUE

Was petitioner, Henry Newman's income received during the years 1970, 1971 and 1972, derived from services performed as an employee or was said income derived from the carrying on of an unincorporated business and thereby subject to the unincorporated business tax?

FINDINGS OF FACT and CONCLUSIONS OF LAW

1. Petitioner, Henry Newman, was the major shareholder and chairman of the Board of Directors of Environmental Research and Applications Inc. He was paid a monthly salary for his executive duties of managing the corporation.

2. Petitioner was furnished with his own office by the corporation and worked there from 9:00 A.M. to 4:30 P.M. daily. Said corporation was petitioner's only employer and source of income during the years 1970, 1971 and 1972.

3. That the income received by petitioner, Henry Newman, in the years 1970, 1971 and 1972 from Environmental Research and Applications Inc. was derived from services performed in his capacity of employee, officer and director of said corporation and the services were not performed in the furtherance of, or for the benefit of, other business activities or occupational activities the conduct of which constitutes an unincorporated business in accordance with the meaning and intent of section 703(b) of the Tax Law.

4. That the petition of Henry Newman is granted and the Notice of Deficiency in the amount of \$2,106.48 for the years 1970, 1971 and 1972 issued July 28, 1975 is cancelled.

DATED: Albany, New York
June 7, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER