

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD B. PERLMAN

AFFIDAVIT OF MAILING

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

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 14th day of January, 1977, he served the within
Notice of Decision by (certified) mail upon Richard B. Perlman

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Mr. Richard B. Perlman
24 Warwick Avenue
Scarsdale, New York 10583

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)~~
~~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

14th day of January, 1977.

Bruce Batchelor

Janet Mack



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

January 14, 1977

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

Mr. Richard B. Perlman
24 Warwick Avenue
Scarsdale, New York 10583

Dear Mr. Perlman:

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,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Prothonotary, Room 2000, State Office Building~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RICHARD B. PERLMAN	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Taxes under	:	
Article 23 of the Tax Law for the Years 1968	:	
and 1969.	:	

Petitioner, Richard B. Perlman, residing at 24 Warwick Avenue, Scarsdale, New York, 10583, has 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 and 1969 (File No. 9-34679473).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on June 10, 1976 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq., of counsel).

ISSUE

Whether the petitioner, Richard B. Perlman's activities as a graphic designer for the years 1968 and 1969 qualified him for a professional exemption under section 703(c) Article 23 of the Tax Law?

FINDINGS OF FACT

1. Petitioner, Richard B. Perlman, filed New York State income tax resident returns for the years 1968 and 1969. He did not file New York State unincorporated business tax returns for the years 1968 and 1969.

2. On May 3, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Richard B. Perlman, imposing unincorporated business tax upon his business income during the years 1968 and 1969 upon the grounds that his activities as a graphic designer constituted the carrying on of an unincorporated business and that his income derived therefrom was subject to unincorporated business tax pursuant to Article 23 of the Tax Law. A Notice of Deficiency in the sum of \$1,423.81 was issued May 22, 1972.

3. Petitioner, Richard B. Perlman, is a graphic designer. The petitioner's work is primarily a design and consultant service for various types of corporations.

4. The specific types of projects the petitioner, Richard B. Perlman, works on are: corporate publications such as recruitment literature, house organs and business information, promotional material for commercial firms and public relations work of non-profit organizations, to disseminate information about their work.

5. Petitioner, Richard B. Perlman's activities as a graphic designer are basically of a conceptual nature. However, the petitioner may make purchases on or in connection with a particular project. These purchases might include copywriting, artwork, type setting, photographic services and printing. However, they are a small part

of the total fee and are always charged to the petitioner's clients and are reimbursed.

6. The petitioner, Richard B. Perlman, attended college at Pratt Institute, school of art and design and received a bachelor's degree in fine arts.

7. The petitioner, Richard B. Perlman, 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.

CONCLUSIONS OF LAW

A. That the activities of petitioner, Richard B. Perlman, as a graphic designer during the years 1968 and 1969, 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.

B. That the aforesaid activities of petitioner, Richard B. Perlman, during the years 1968 and 1969 constituted the carrying on of an unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of Richard B. Perlman is denied and the Notice of Deficiency issued May 22, 1972 is sustained.

DATED: Albany, New York
January 14, 1977

STATE TAX COMMISSION

James G. Tully
PRESIDENT

Milton Krumm
COMMISSIONER

Thomas A. Gmel
COMMISSIONER