

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SOUTHERN DISTRICT COURT REPORTERS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Unincorporated Business Tax  
Taxes under Article (8) 23 of the  
Tax Law for the Year(s) ~~or Period(s)~~  
1966, 1967, 1968, 1971 and 1972.

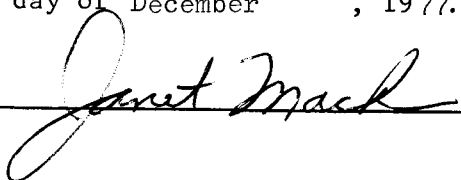
State of New York  
County of Albany

John Huhn, 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 7th day of December, 1977, she served the within  
Notice of Decision by (certified) mail upon Southern District Court  
Reporters (~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Southern District Court Reporters  
U.S. Courthouse  
Foley Square  
New York, New York 10007  
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 December, 1977.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SOUTHERN DISTRICT COURT REPORTERS

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)~~ :  
~~1966, 1967, 1968, 1971 and 1972~~

State of New York  
County of Albany

John Huhn, 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 7th day of December, 1977, she served the within  
Notice of Decision by (certified) mail upon Arthur S. Olick, Esq.

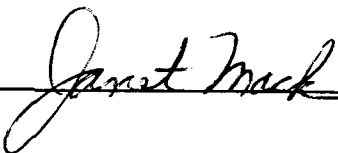
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Arthur S. Olick, Esq.  
Anderson Russell Kill & Olick, P.C.  
630 Fifth Ave.  
New York, NY 10020

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 December, 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

**December 7, 1977**

**Southern District Court Reporters  
U.S. Courthouse  
Foley Square  
New York, New York 10007**

**Gentlemen:**

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,

**John J. Sollecito  
Director**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
SOUTHERN DISTRICT COURT REPORTERS	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Tax under	:	
Article 23 of the Tax Law for the Years 1966,	:	
1967, 1968, 1971 and 1972.	:	

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Petitioner, Southern District Court Reporters, U.S. Courthouse, Foley Square, New York, New York 10007, 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 1966, 1967, 1968, 1971 and 1972 (File No. 01389).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 15, 1976 at 9:15 A.M. Petitioner appeared by Arthur S. Olick, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Arnold Dorman, Esq., of counsel).

ISSUE

Whether 80% of petitioner, Southern District Court Reporters' income was derived from the personal services of members of the partnership and, therefore, exempt from unincorporated business tax for the years in issue.

FINDINGS OF FACT

1. On November 29, 1971 and September 30, 1974, the Income Tax Bureau issued statements of audit changes against petitioner, Southern District Court Reporters, imposing unincorporated business tax upon its income during the years in issue, on the ground that the income of member partners did not constitute more than 80% of unincorporated business gross income. Accordingly, it issued a Notice of Deficiency on November 29, 1971 in the amount of \$42,455.70 and another Notice of Deficiency on September 30, 1974 in the amount of \$42,758.72.

2. Petitioner, Southern District Court Reporters, is a partnership of twenty-five certified shorthand reporters appointed for the District Court of the United States under an Act of Congress (Title 28, U.S. Code Section 753) by the Judges thereof. The reporters report verbatim by shorthand or other means, all proceedings in the District Court. They receive a salary from the U.S. Government for attendance in court, receive an appropriate fee for minutes requested and fees from dispositions. Each partner receives a proportionate share of the transcript fee, depending on production.

3. Petitioner, Southern District Court Reporters, employs many assistants. They also train free-lance, non-official reporters, some of which become, if qualified, official reporters and members of the partnership. Assistants include transcribers, typists, bookkeeper/supervisors, as well as people that collate transcripts and operate the xerox machine. The work is done at the U.S. Courthouse. Rent, light and heat is supplied by the U.S. Government. Petitioner pays for telephone, paper and supplies.

4. Petitioner, Southern District Court Reporters' use of non-partner court reporters was generally for non-court endeavor. Ninety percent of their work was for outside depositions and ten percent was related to court reporting under the supervision of an official court reporter who must certify and verify their reports.

5. Petitioner, Southern District Court Reporters, had the following gross receipts and outside deposition revenue.

	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1971</u>	<u>1972</u>
Gross Receipts	\$517,045	\$641,573	\$746,278	\$860,330	\$956,444
Total Outside Revenue (Depositions, Etc.)	Not Available	\$186,000	\$250,000	\$252,000	\$276,000
90% Revenue of Depositions by Free Lance Reporters	Not Available	\$167,400	\$225,000	\$226,800	\$248,400

Revenue by free-lance reporters = % of revenue secured by free-lance reporters  
Gross Receipts

1966	Not available	
1967	$\frac{167,400}{641,573} = 26\%$ , or	74% of gross receipts derived from petitioner's services
1968	$\frac{225,000}{746,278} = 30\%$ , or	70% of gross receipts derived from petitioner's services
1971	$\frac{226,800}{860,330} = 26\%$ , or	74% of gross receipts derived from petitioner's services
1972	$\frac{248,400}{956,444} = 26\%$ , or	74% of gross receipts derived from petitioner's services

Ten percent of the duties of the free-lance, non-official reporters are in transcribing court proceedings. Therefore, the percentage of gross receipts derived from petitioner/partners' services would be decreased accordingly.

CONCLUSIONS OF LAW

A. That the computation of percentages in Finding of Fact #5, supra, indicates that less than 80% of the gross receipts is derived from the personal services actually rendered by members of the partnership of petitioner, Southern District Court Reporters. Therefore, the income of petitioner is subject to unincorporated business tax for the years in issue, in accordance with the meaning and intent of section 703(c) of the Tax Law.

B. That the petition of Southern District Court Reporters is denied and the notices of deficiency issued November 29, 1971 and September 30, 1974 are sustained.

DATED: Albany, New York  
December 7, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER