

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

GRACE VAN VOORHIS

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) ~~XX Period(s)X~~ :  
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 30th day of June, 19 77, she served the within  
Notice of Decision by (certified) mail upon Grace Van Voorhis  
~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Grace Van Voorhis  
205 West 89th Street  
New York, New York 10024  
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

30th day of June, 1977.

*Marsina Donnini*

*Janet Mack*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

GRACE VAN VOORHIS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article (30) 23 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1968, 1969 and 1970

State of New York  
County of Albany

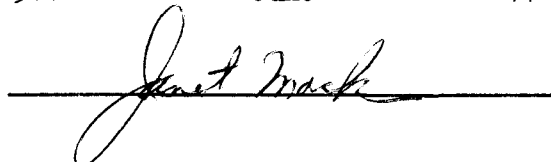
Marsina Donnini, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 30th day of June, 1977, she served the within Notice of Decision by (certified) mail upon Leon Pfeffer, CPA (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Leon Pfeffer, CPA  
Zwaik, Bernstein & Co.  
1745 Merrick Avenue  
Merrick, New York 11566  
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

30th day of June, 1977.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

June 30, 1977

ADDRESS YOUR REPLY TO

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

Grace Van Voorhis  
205 West 89th Street  
New York, New York 10024

Dear Ms. Voorhis:

Please take notice of the **Decision**  
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to  
Section(s) **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*  
**FRANK J. PUCCIA**  
Supervisor of  
Small Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
of	:	
GRACE VAN VOORHIS	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Unincorporated Business Taxes	:	
under Article 23 of the Tax Law for the	:	
Years 1968, 1969 and 1970.	:	

---

Petitioner, Grace Van Voorhis, residing at 205 West 89th Street, New York, New York 10024, filed a petition for redetermination of deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1968, 1969, and 1970. (File No. O-54262448). A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, State Campus, Building # 9, Albany, New York, on December 13, 1976, at 10:30 A.M. Petitioner appeared by Leon Pfeffer, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq., (Harris Sitrin, Esq., of counsel).

ISSUE

Was the income derived from petitioner, Grace Van Voorhis' activities in the field of packaging design during the years 1968, 1969 and 1970 subject to unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Grace Van Voorhis, filed New York State personal income tax returns for 1968, 1969 and 1970 in which she indicated that her occupation was in the field of package design. Petitioner, Grace Van Voorhis, reported her income as business income. She did not file unincorporated business tax returns for these years. The Income Tax Bureau contended that she was self-employed and that her business income was subject to unincorporated business tax. A Notice of Deficiency was issued April 11, 1975 to petitioner, Grace Van Voorhis, for the years 1968, 1969 and 1970 in the amount of \$1,084.79 unincorporated business tax due, plus \$485.75 penalty, plus \$297.80 interest, for a sum of \$1,868.34.

2. Petitioner, Grace Van Voorhis, had a major employer, AR. Winarick, Inc. during the years 1968, 1969 and 1970. She also had four other employers in 1968; one other employer in 1969 and three other employers in 1970. Petitioner, Grace Van Voorhis, contended that she was an employee of her major employer, AR. Winarick, Inc. although conceding that she was self-employed and subject to unincorporated business tax as far as the other employers were concerned.

3. Petitioner, Grace Van Voorhis, was retained by her major employer, AR. Winarick, Inc., in the capacity of creative director of packaging and design. Said corporation provided petitioner, Grace Van Voorhis, with office space and made certain office and artistic personnel available for her use in its behalf. She was paid a monthly stipend which was reported on Federal Form 1099.

No deductions were made from her compensation. In connection with services performed for AR. Winarick, Inc., petitioner, Grace Van Voorhis, hired freelance artists whom she paid with her own funds.

4. Petitioner, Grace Van Voorhis, was on call at all times including evenings by AR. Winarick, Inc. She had no regular work days or hours. She scheduled her working time between her major employer and the other employers, herself. Except for certain specific items, petitioner, Grace Van Voorhis, was not reimbursed by AR. Winarick, Inc., for expenses she incurred in the performance of services for said corporation.

5. The services rendered by petitioner, Grace Van Voorhis, for all employers was similar in nature. She maintained an office in her home. Petitioner, Grace Van Voorhis, filed Federal Schedule C on which she reported all income and expenses from all employers. She also filed Federal Schedule SE, "computation of Social Security Self Employment Tax."

#### CONCLUSIONS OF LAW

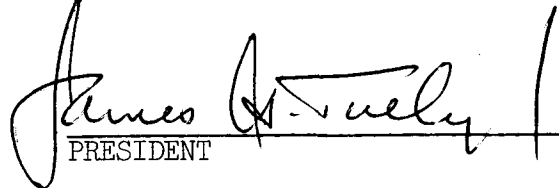
A. That the income received by petitioner, Grace Van Voorhis, from all the principals including AR. Winarick, Inc., for whom she performed services during the years 1968, 1969 and 1970 constituted income from her regular business in the field of packaging design and not compensation as an employee exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

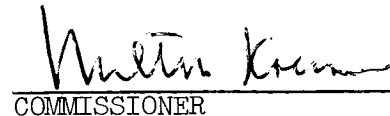
B. That the aforesaid activities of petitioner, Grace Van Voorhis, during the years 1968, 1969 and 1970 constituted the carrying on of an unincorporated business and her income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of Grace Van Voorhis is denied and the Notice of Deficiency issued April 11, 1975 is sustained.

DATED: Albany, New York  
June 30, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER