

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Ralph A. Adams :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Unincorporated Business Tax :
under Article 23 of the Tax Law
for the Years 1969 & 1970. :

State of New York
County of Albany

Jay Vredenburg, 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 31st day of August, 1979, he served the within notice of Decision by certified mail upon Ralph A. Adams, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Ralph A. Adams

136 Saxon Dr.

Mamaroneck, NY 10543

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
31st day of August, 1979.

Mary J. [Signature]

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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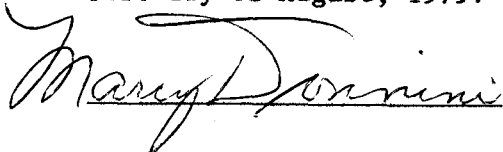
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 31st day of August, 1979, he served the within notice of Decision by certified mail upon Hannis J. Ronis the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

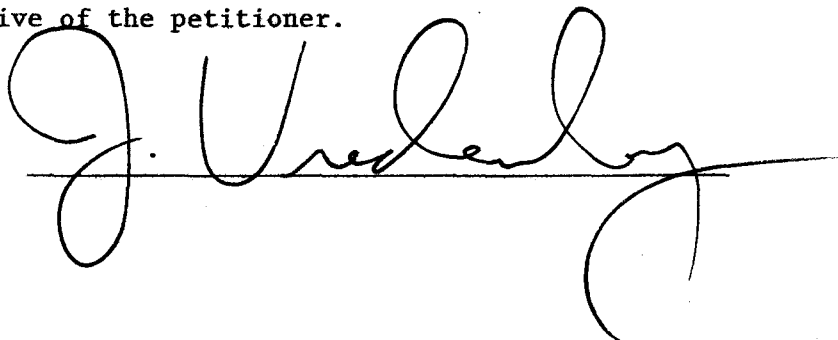
Mr. Hannis J. Ronis
P.O. Box 88
Yonkers, NY 10710

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
31st day of August, 1979.


Mary Donrini


Jay Vredenburg

STATE TAX COMMISSION

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 September 19, 1978 at 1:15 P.M. Petitioner appeared by Hanns J. Ronis. The Income Tax Bureau appeared by Peter Crotty, Esq. (Aliza Schwadron, Esq., of counsel).

ISSUES

I. Whether the income from petitioner's activities as a self-employed hairdresser is subject to unincorporated business tax.

II. Whether the Income Tax Bureau properly asserted penalties for petitioner's failure to file unincorporated business tax returns for 1969 and 1970, and for his failure to pay the amounts shown as tax on any return required to be filed.

FINDINGS OF FACT

1. Petitioner, Ralph A. Adams, timely filed New York State personal income tax returns for 1969 and 1970; however, he failed to file unincorporated business tax returns for said years.

2. The Income Tax Bureau issued a Statement of Audit Changes for the years at issue which held that the income generated from petitioner's business was subject to unincorporated business tax. Accordingly, the Bureau issued a Notice of Deficiency on September 25, 1972 for unincorporated business tax of \$474.80, plus penalty (pursuant to sections 685(a)(1) and (2) of the Tax Law) of \$164.54 and interest of \$56.11, for a total due of \$695.45.

3. Petitioner concedes that the income from his self-employment is subject to unincorporated business tax; however, he contests the imposition of penalties for his failure to file unincorporated business tax returns. His basis for contesting the assertion of penalties is that his failure to file was based on the advice of his accountant.

4. Petitioner filed unincorporated business tax returns for 1966, 1967 and 1968; however, he failed to file unincorporated business tax returns for the years at issue, although petitioner's business activities remained substantially the same as for prior years.

CONCLUSIONS OF LAW

A. That petitioner's business activity as a self-employed hairdresser is subject to unincorporated business tax.

B. That the Income Tax Bureau properly asserted penalties against petitioner, Ralph A. Adams, for failing to file unincorporated business tax returns and to pay the amount of tax required to be shown due thereon for 1969 and 1970, in accordance with the meaning and intent to sections 685(a)(1) and 685(a)(2) of the Tax Law.

C. That the petition of Ralph A. Adams is denied and the Notice of Deficiency issued September 25, 1972 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

STATE TAX COMMISSION

AUG 31 1979

PRESIDENT

Milton Koenig

COMMISSIONER

Thomas H. Hagan

COMMISSIONER