

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Stephen S. Henkin :

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

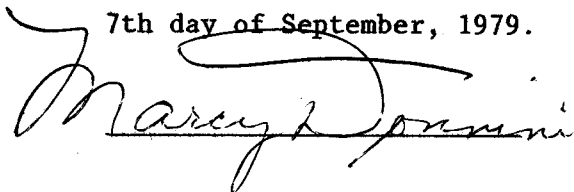
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of September, 1979, he served the within notice of Decision by certified mail upon Stephen S. Henkin, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

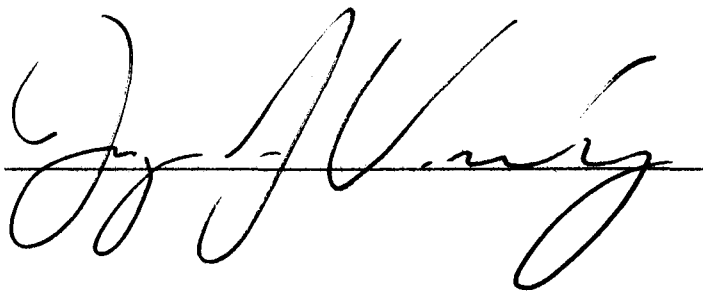
Stephen S. Henkin  
1801 Ocean Ave.  
Brooklyn, NY 11230

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  
7th day of September, 1979.

  
Marcy J. Primm

  
Jay Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Stephen S. Henkin :

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for Redetermination of a Deficiency or a Revision :  
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Unincorporated Business Tax :  
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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 7th day of September, 1979, he served the within notice of Decision by certified mail upon Norman J. Elliott the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

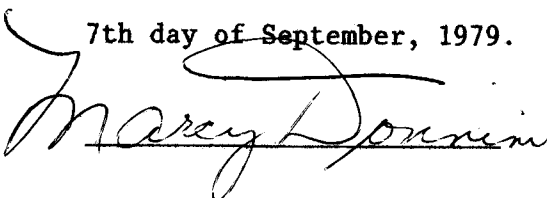
Mr. Norman J. Elliott  
522 - 5th Ave.  
New York, NY 10036

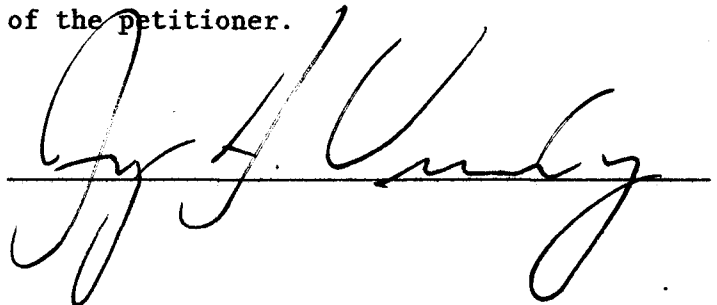
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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 September, 1979.

  
Mary Donnen

  
Jay Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Stephen S. Henkin :

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 1971 & 1972. :

State of New York

County of Albany

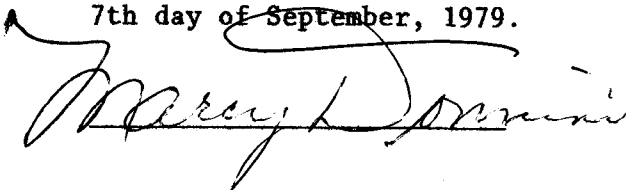
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of September, 1979, he served the within notice of Decision by certified mail upon Stephen S. Henkin, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

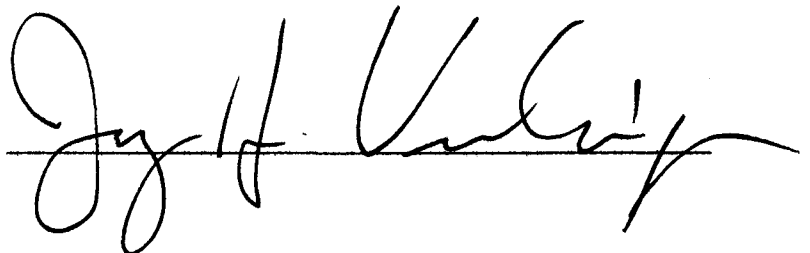
Stephen S. Henkin  
1801 Ocean Ave.  
Brooklyn, NY 11230

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  
7th day of September, 1979.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Stephen S. Henkin :

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 1971 & 1972. :

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 7th day of September, 1979, he served the within notice of Decision by certified mail upon Norman J. Elliott 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. Norman J. Elliott  
522 5th Ave.  
New York, NY 10036

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 September, 1979.

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

JOHN J. SOLLECITO  
DIRECTOR

Telephone: (518) 457-1723

September 7, 1979

Stephen S. Henkin  
1801 Ocean Ave.  
Brooklyn, NY 11230

Dear Mr. Henkin:

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,



cc: Petitioner's Representative  
Norman J. Elliott  
522 - 5th Ave.  
New York, NY 10036  
Taxing Bureau's Representative

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
STEPHEN S. HENKIN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business Tax	:	
under Article 23 of the Tax Law for the	:	
Years 1969, 1970, 1971 and 1972.	:	

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Petitioner, Stephen S. Henkin, 1801 Ocean Avenue, Brooklyn, New York 11230, 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 1969, 1970, 1971 and 1972 (File Nos. 13929 and 13930).

A small claims hearing was held before Carl P. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 12, 1978 at 9:15 A.M. Petitioner appeared by Vincent M. Tepedino, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq., of counsel).

ISSUE

Whether petitioner's activities as a medical record administrator constituted the practice of a profession exempt from unincorporated business tax.

FINDINGS OF FACT

1. Petitioner, Stephen S. Henkin, and his wife, Gertrude Henkin, timely filed New York State income tax resident returns for 1969 through 1972. Petitioner, Stephen S. Henkin, did not file unincorporated business tax returns for said years.

2. On December 3, 1974, the Income Tax Bureau issued two notices of deficiency. One asserted unincorporated business tax due for 1969 and 1970 of \$911.58, plus penalty and interest of \$651.73. The other asserted unincorporated business tax for 1971 and 1972 of \$801.68, plus penalty and interest of \$397.39. The two notices were issued on the grounds that petitioner's activities constituted the carrying on of an unincorporated business and that the income derived therefrom was subject to unincorporated business tax.

3. The American Medical Record Association (hereinafter "AMRA") classified petitioner as a Medical Record Administrator.

4. The qualifications of a Medical Record Administrator are graduation from an accredited college or university and approval by the AMRA and the American Medical Association. After obtaining a degree, the candidate must successfully pass a nationwide licensing examination administered by the AMRA. To maintain accreditation, the candidate must complete 75 hours of special education every five years.

5. A Medical Record Administrator must adhere to the code of ethics and bylaws of the AMRA. Any break from this code of ethics by members can mean expulsion from the AMRA.

6. Petitioner contended that a Medical Record Administrator is not allowed to advertise or make solicitations for his services; rather, he must rely on his reputation to secure work.

7. The relationship of petitioner to a hospital or nursing home is that of an independent contractor and not that of an employer-employee or of a principal-agent, although the New York State Health Department requires a written agreement between the parties.

8. Petitioner contended that New York State requires a hospital or nursing home to secure a Medical Record Administrator to examine their medical records.

9. Petitioner's work consisted of the following elements:

a) To advise medical institutions how to set up adequate internal systems to record, control and administer the required medical records.

b) To advise on the organization of medical record systems, on the implementation of such systems and on the means to follow through to see that the system meets objectives of the medical profession, of governmental bodies and of other agencies.

c) To interpret the rules and regulations established by various governmental and other agencies pertaining to medical records, and to advise on what the requirements of such groups may be.

d) To teach and instruct personnel about the maintenance of medical records and systems.



e) To conduct independent periodic audits of medical records, by analyzing such records for their degree of compliance with existing rules and regulations; also, to gather and organize facts in such a manner as to be able to define problems and recommend solutions.

f) To submit a written report of such an audit or survey to the medical institution, as required by New York State Law.

10. Capital was not a material income producing factor, and more than 80% of petitioner's income was derived from services rendered. His services were performed on a fee basis.

#### CONCLUSIONS OF LAW

A. That the activities of petitioner, Stephen S. Henkin, as a medical record administrator during 1969, 1970, 1971 and 1972, although requiring special knowledge and experience, did not constitute the practice of a profession, within the meaning and intent of section 703(c) of the Tax Law and 20 NYCRR 203.11.

B. That the aforesaid activities of petitioner, Stephen S. Henkin, during 1969, 1970, 1971 and 1972 constituted the carrying on of an unincorporated business subject to unincorporated business tax, in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of Stephen S. Henkin is denied and the notices of deficiency issued December 3, 1974 are sustained,

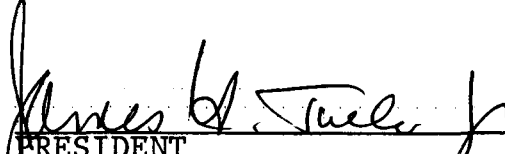
- 5 -

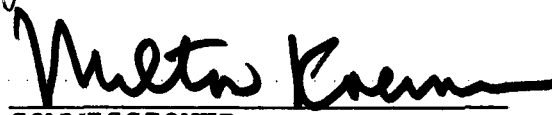
together with such additional interest and penalties as may be lawfully owing.

DATED: Albany, New York

SEP 7 1979

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER



New York State Department of  
**TAXATION and FINANCE**  
TAX APPEALS BUREAU

to..... Mr. Coburn.....

Better address, remailed 9/24/79.

9/24/79

Joseph Chyrywaty

M-75 (5/76)

TA-26 (4-76) 25M

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

**CERTIFIED**

No. 493498

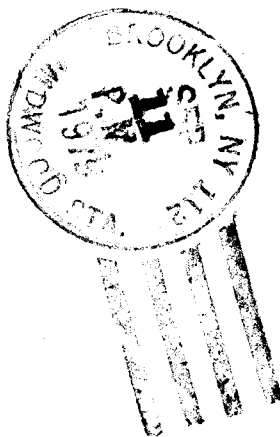
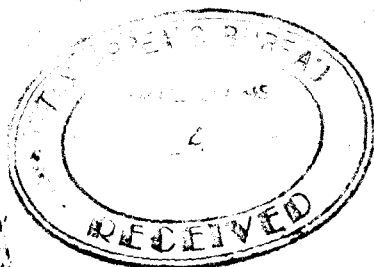
**MAIL**

☒ Moved, left no address  
☒ No such number  
☒ Moved, not forwardable  
☒ Addressee unknown



Stephen S. Henkin  
1801 Ocean Ave.  
Brooklyn, NY 11230

TH 36 sent  
9/1/59



sent  
by  
530ppp. on 9/1/59  
moved to address 6/11/6

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

STEPHEN S. HENKIN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
~~XXXXXXX~~ Refund :  
of Unincorporated Business :  
Taxes under Article ~~(8)~~ 23 of the :  
Tax Law for the Year(s) ~~XXXXXXX~~ :  
1969, 1970, 1971 and 1972.

State of New York  
County of Albany

Jay Vredenburg, 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 24th day of September, 1979, she served the within  
Notice of Decision by ~~XXXXXXX~~ mail upon Stephen S.  
Henkin ~~(XXXXXXX)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Stephen S. Henkin  
9241 Sunrise Lakes Blv. #304  
Sunrise, Florida 33322

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

Sworn to before me this

24th day of September, 1979.

Marcy Dominis

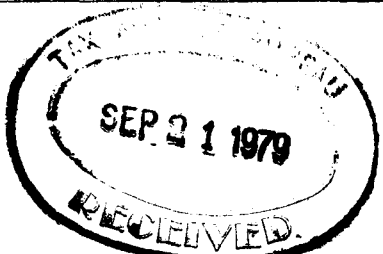
J. J. Vredenburg

REQUEST FOR BETTER ADDRESS

Requested by <i>Lynn Luce</i>	Unit <i>TAB Rm 107 Bldg 9</i>	Date of Request <i>9/14/79</i>
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Please find most recent address of taxpayer described below; return to person named above.

Social Security Number <i>053-03-2808</i>	Date of Petition <i>75/02/27</i>
Name <i>HENKIN, STEPHEN S.</i>	
Address <i>1801 OCEAN AVENUE BROOKLYN, NY 11230</i>	



## Results of search by Files

<input checked="" type="checkbox"/> New address:	<i>9241 SURPRISE LAKES BLV # 304 SURPRISE, FL 33322</i>
<input type="checkbox"/> Same as above, no better address	
<input type="checkbox"/> Other:	

Searched by	Section	Date of Search

PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER

