

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Arnold Oshin :

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 Year 1967. :

State of New York

County of Albany

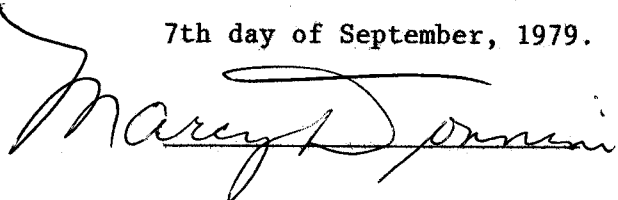
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of September, 1979, he served the within notice of Decision by certified mail upon Arnold Oshin, the petitioner in the within proceeding,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

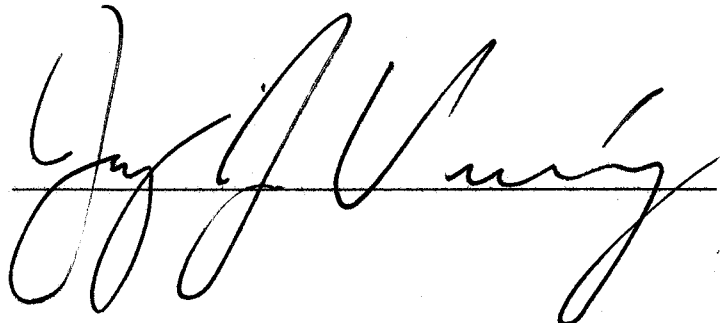
Arnold Oshin
1535-11 Street
Fort Lee, NJ 07024

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.


Mary D. Spenn


Jay Vredenburg

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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 7, 1979

Arnold Oshin
1535-11 Street
Fort Lee, NJ 07024

Dear Mr. Oshin:

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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ARNOLD OSHIN : DECISION
for Redetermination of a Deficiency or :
for Refund of Unincorporated Business :
Tax under Article 23 of the Tax Law :
for the Year 1967. :
:

Petitioner, Arnold Oshin, 1535-11th Street, Fort Lee, New Jersey 07024, filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1967 (File No. 13884).

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 June 23, 1978 at 9:15 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether petitioner's activities as an industrial designer constituted the practice of a profession exempt from the imposition of the unincorporated business tax.

FINDINGS OF FACT

1. Petitioner, Arnold Oshin, and Sydel Oshin, his wife, timely filed a New York State Combined Income Tax Return (Form IT-208) for 1967. Petitioner, Arnold Oshin, also filed an unincorporated business tax return for said year. Petitioner listed his occupation to be that of a consulting engineer.

2. On May 13, 1969, petitioner filed a Claim For Credit Or Refund Of Unincorporated Business Tax (Form IT-113X), on the grounds that he erroneously filed an unincorporated business tax return for 1967 and paid \$927.26 in tax.

3. On July 22, 1969, a Waiver of Statutory Notification of Claim Disallowance (Form IT-50.2) was issued by the Income Tax Bureau, on the grounds that petitioner was not licensed as a professional engineer in New York State. Petitioner did not sign said waiver and on September 29, 1969, he was issued a Notice of Disallowance.

4. Petitioner received a Bachelor's degree in mechanical engineering and industrial design from Brooklyn Polytechnic Institute in 1948 and an MBA degree in 1953 from the New York University Graduate School of Business. Petitioner also took advanced courses in industrial design and architecture at Pratt Institute from 1955 to 1957.

5. During 1967 petitioner designed containers, cartons, boxes, work stations, educational equipment and medical and research instruments. His activities involved the specification of shapes, sizes, colors, volumes and kinds of materials to be used. He rendered such services for Bankers Trust Company, First National City Bank, New Brunswick Scientific Company, Continuous Progress Education, Inc. and Haake Instruments, Inc. He has been engaged in this type of work since 1966.

6. Petitioner assumed full responsibility for all his designs and recommendations and carried professional liability insurance to compensate for his errors and omissions.

7. Petitioner held himself out to the public as an industrial designer and product engineer, as per his letterhead and business cards.

8. Petitioner's income as an industrial designer was derived solely from the personal services which he rendered. Capital was not a material income-producing factor.

CONCLUSIONS OF LAW

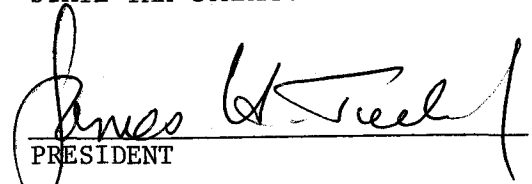
A. That the activities of petitioner, Arnold Oshin, as an industrial designer during 1967 constituted the practice of a profession, in accordance with the meaning and intent of section 703(c) of the Tax Law. (Matter of Teague v. Graves, 261 App. Div. 652, aff'd, no opinion, 287 N.Y. 549.)

B. That the petition of Arnold Oshion is granted and the Notice of Disallowance issued September 29, 1969 is cancelled.

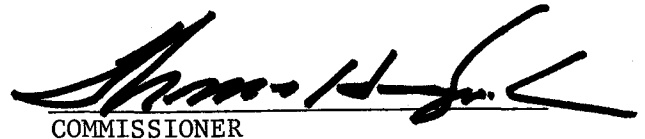
DATED: Albany, New York

SEP 7 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

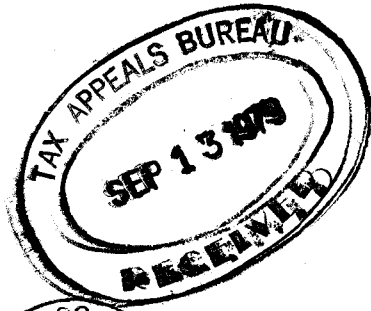

COMMISSIONER

STATE OF NEW YORK
 Department of Taxation and Finance
 TAX APPEALS BUREAU
 STATE CAMPUS
 ALBANY, N. Y. 12227



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

Arnold Oshin
 1535-14 Street
 Fort Lee, NJ 07024



CERTIFIED

No. 473627

MAIL

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARNOLD OSHIN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a ~~XXXXXX~~ Refund :
of Unincorporated Business :
Taxes under Article ~~(S)~~ 23 of the :
Tax Law for the Year ~~(S)~~ 1967:

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 19th day of September, 1979, ~~she~~ served the within
Notice of Decision by ~~XXXXXX~~ mail upon Arnold
Oshin ~~(XXXXXX)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Arnold Oshin
432 Claremont Avenue
Teaneck, New Jersey 07666

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

Sworn to before me this

19th day of September, 1979.

Mary Dominici

Jay Vredenburg