

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Wilkins Meat Market : 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 1973. :

State of New York
County of Albany

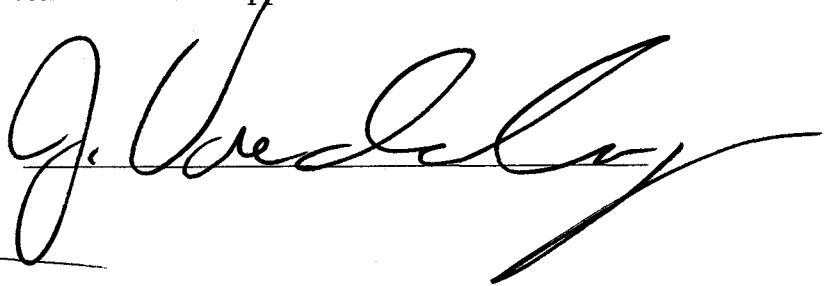
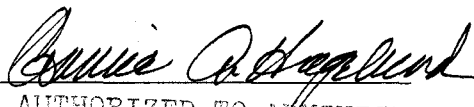
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 12th day of October, 1982, he served the within notice of Decision by certified mail upon Wilkins Meat Market, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Wilkins Meat Market
c/o Karl Jacobs
5620 Netherland Ave.
Bronx, NY 10471

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
12th day of October, 1982.



AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

October 12, 1982

Wilkins Meat Market
c/o Karl Jacobs
5620 Netherland Ave.
Bronx, NY 10471

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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
WILKINS MEAT MARKET	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Tax under	:	
Article 23 of the Tax Law for the Year 1973.	:	

Petitioner Wilkins Meat Market, c/o Karl Jacobs, 5620 Netherlands Avenue, Bronx, New York 10471 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 1973 (File No. 27492).

A small claims hearing was held before Samuel Levy, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 15, 1981 at 9:15 A.M. Petitioner appeared by Karl Jacobs, partner. The Audit Division appeared by Ralph J. Vecchio, Esq. (Angelo Scopellito, Esq., of counsel).

ISSUES

I. Whether petitioner filed an unincorporated business tax return and paid the tax due thereon for 1973.

II. Whether interest on the underpayment of unincorporated business tax may be waived.

III. Whether penalties were properly imposed pursuant to section 685 of the Tax law.

FINDINGS OF FACT

1. Petitioner, Wilkins Meat Market, a New York partnership, did not file an unincorporated business tax return for 1973.

2. On May 3, 1979, the Audit Division issued a Notice of Deficiency against the petitioner asserting unincorporated business taxes of \$733.48, plus penalties and interest of \$680.29 for a total of \$1,413.77. The Notice of Deficiency for unincorporated business tax was based on a Statement of Audit Changes issued under date of September 21, 1978, which held that petitioner failed to file an unincorporated business tax return for 1973. The amount of unreported unincorporated business income was determined from the reported income of the individual members of the partnership on their New York State personal income tax returns.

3. At the hearing, Mr. Karl Jacobs, partner, conceded that the tax at issue is due and owing. However, he contests the assertion of penalties and interest due thereon.

4. Based on the testimony of Mr. Karl Jacobs, the Audit Division conceded that the penalties asserted against the petitioner be waived.

CONCLUSIONS OF LAW

A. That the petitioner, Wilkins Meat Market, failed to file an unincorporated business tax return for the subject year. That the Audit Divisions computation of tax due is correct.

B. That section 684 of the Tax Law makes no provision for waiver of interest on unpaid tax where petitioner fails to file a return and pay the tax due.

C. That pursuant to Finding of Fact "4" supra, the penalties asserted in accordance with section 685 of the Tax Law are cancelled.

D. That the petition of Wilkins Meat Market, is granted to the extent set forth in Conclusion of Law "C", and, that, except as so granted, the petition is in all other respects denied.

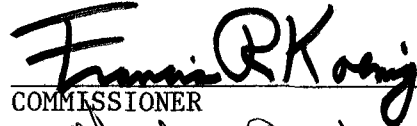
DATED: Albany, New York

OCT 12 1982


STATE TAX COMMISSION



ACTING PRESIDENT



COMMISSIONER



COMMISSIONER