

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Hershel & Sylvia Krasnow :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of t

for the Years 1968,19

State of New York

County of Albany

Jay Vredenburg  
of the Department o  
16th day of Novembe  
mail upon Hershel &  
enclosing a true co  
follows:

Hershel & Sylvia Krasnow  
118 East 60th St.  
New York, NY 10022

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  
16th day of November, 1979.

Joanne Knapp

*Please take  
back to Louise  
when you get  
a chance.*

*Thanks  
R.*

; that he is an employee  
s of age, and that on the  
of Decision by certified  
the within proceeding, by  
paid wrapper addressed as

*J. Vredenburg*

Please take  
back to Louise  
when you get  
a chance.

Thank  
R.

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of  
Hershel & Sylvia Krasnow :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :  
of a Determination or a Refund of  
Personal Income Tax :  
under Article 22 of the Tax Law  
for the Years 1968, 1969, 1971. :

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 16th day of November, 1979, he served the within notice of Decision by certified mail upon Hershel & Sylvia Krasnow, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Hershel & Sylvia Krasnow  
118 East 60th St.  
New York, NY 10022

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.

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Sworn to before me this  
16th day of November, 1979.

Joanne Knapp

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

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Hershel & Sylvia Krasnow :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of the Tax Law

for the Years 1968, 1969, 1971. :

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 16th day of November, 1979, he served the within notice of Decision by certified mail upon Ralph Glickman 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. Ralph Glickman  
10 East 40th St.  
New York, NY 10016

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  
16th day of November, 1979.

Joanne Knapp

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Hershel Krasnow :

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 1968-1971. :

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 16th day of November, 1979, he served the within notice of Decision by certified mail upon Hershel Krasnow, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Hershel Krasnow  
118 East 60th St.  
New York, NY 10022

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  
16th day of November, 1979.

Joanne Krapp

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Hershel Krasnow :

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 1968-1971. :

State of New York

County of Albany

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Sworn to before me this  
16th day of November, 1979.

Joanne Krapp

J. Vredenburg

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

November 16, 1979

Hershel & Sylvia Krasnow  
118 East 60th St.  
New York, NY 10022

Dear Mr. & Mrs. Krasnow:

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) 690 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  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Ralph Glickman  
10 East 40th St.  
New York, NY 10016  
Taxing Bureau's Representative

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

November 16, 1979

Hershel Krasnow  
118 East 60th St.  
New York, NY 10022

Dear Mr. Krasnow:

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  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Ralph Glickman  
10 East 40th St.  
New York, NY 10016  
Taxing Bureau's Representative



STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
HERSHEL KRASNOW and SYLVIA KRASNOW	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income and	:	
Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law for	:	
the Years 1968, 1969, 1970 and 1971.	:	

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Petitioners, Hershel and Sylvia Krasnow, 118 East 60th Street, New York, New York 10022, filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1968, 1969, 1970 and 1971 (File Nos. 12666 and 12667).

A formal hearing was held before Neil Fabricant, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 24, 1977 at 2:45 P.M. Petitioners appeared by Ralph Glickman, CPA. The Income Tax Bureau appeared by Peter J. Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUES

I. Whether the income derived from petitioner Hershel Krasnow's activities as an underwriting sales executive is subject to the imposition of unincorporated business tax.

II. Whether said income was properly allocated to sources within and without New York State on the joint New York State income tax nonresident returns filed by petitioners for the years at issue.

FINDINGS OF FACT

1. Petitioners, Hershel and Sylvia Krasnow, filed New York State income

tax nonresident returns for 1968, 1969 and 1970. No return was filed for 1971. Petitioner Sylvia Krasnow's wages were omitted from total New York income which was reported for 1968. Petitioner Hershel Krasnow allocated his income on the basis of days worked within and without New York State on all returns which he filed. His Federal income was computed by reducing his income per wage and tax statements by a) purported short-term capital gains, b) amounts claimed as never having been received, and c) amounts claimed to have been received in other years. Unincorporated business tax returns were not filed for any of the years at issue. Petitioners executed consents extending to April 15, 1975, the period within which to issue deficiencies for 1968, 1969 and 1970.

2. On November 25, 1974, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, wherein adjustments were made to conform to Federal audit changes. Furthermore, New York State adjustments were made whereby petitioner Hershel Krasnow's claimed allocation of income was disallowed in its entirety, petitioner Sylvia Krasnow's 1968 wage income was held as being fully taxable to New York, and wage and tax statement income which was reported as short-term capital gains was deemed to be ordinary income. (The adjustments relating to Mrs. Krasnow's 1968 income and to the income reported as short-term capital gain income were not contested by petitioners.) Penalties under sections 685(a)(1) and 685(a)(2) of the Tax Law were imposed for failure to file a return and to pay the tax for 1971.

On the same date, a second Statement of Audit Changes was issued against petitioner Hershel Krasnow, imposing unincorporated business tax on the income which he derived from his activities as an underwriting sales executive. Penalties under sections 685(a)(1) and 685(a)(2) of the Tax Law were imposed for all taxable years at issue.

In accordance with the aforementioned statements, notices of deficiency were issued under the same date.

3. During 1968 and 1969, petitioner Hershel Krasnow derived income from the firm of Weis, Voisin, Cannon, Inc. (hereinafter "Weis"), a New York brokerage firm. He was compensated on a commission basis for his sales to the general public, as well as for his underwriting work which consisted of placing blocks of securities with various unrelated brokerage houses.

4. In addition to the income derived from Weis, petitioner Hershel Krasnow also derived income from two other New York brokerage houses during 1970. He contended that he was prohibited from working for more than one brokerage firm at any time under New York Stock Exchange rules, and claimed that the relationship was terminated with one principal prior to entering into a relationship with another.

5. Petitioner Hershel Krasnow was not reimbursed for business expenses which he incurred.

6. Petitioner Hershel Krasnow maintained an office in his home, traveled extensively in seeking to place blocks of securities with brokers throughout the country, employed secretarial personnel on his own account, and had substantial discretion in allocating his time and work conditions.

7. No income taxes were withheld by any of Mr. Krasnow's principals other than Weis, which withheld taxes for each of the years at issue.

8. Petitioner Hershel Krasnow had a "Keogh," self-employed retirement plan during part of the years at issue.

9. No evidence or testimony was offered with respect to the issue of allocation.

#### CONCLUSIONS OF LAW

A. That sufficient direction and control was not shown to have been

exercised by any of petitioner Hershel Krasnow's principals as to result in an employer-employee relationship, in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That during the years at issue, the activities of Hershel Krasnow constituted the carrying on of an unincorporated business; thus, the income derived therefrom is subject to unincorporated business tax, within the meaning and intent of section 701 of the Tax Law.

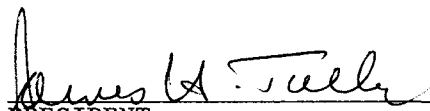
C. That petitioners have failed to sustain the burden of proof established by section 689(e) of the Tax Law which requires them to show that they are entitled to allocate income within and without New York State; therefore, all income derived from the above-stated activities is deemed to be New York source income.

D. That the petition of Hershel and Sylvia Krasnow is denied and the notices of deficiency issued on November 25, 1974 for personal income and unincorporated business taxes are sustained, together with such penalty and interest as may be lawfully owing.


DATED: Albany, New York

**NOV 16 1979**

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER



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

to .... Paul Coburn .....

Please file.

HERSHEL & SYLVIA KRASNOW

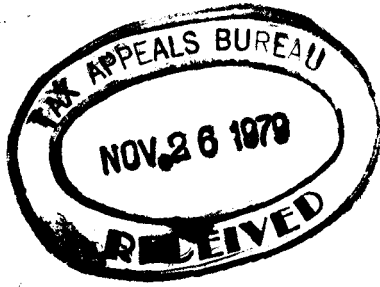
November 27, 1979

M-75 (5/76)

From Robert F. Mulligan

TA-26 (4-76) 25M

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



Ralph Glickman  
10 East 40th St.  
New York, NY 10016

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

November 16, 1979

Hershel & Sylvia Krasnow  
118 East 60th St.  
New York, NY 10022

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STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition  
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for Redetermination of a Deficiency or  
for Refund of Personal Income and  
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Articles 22 and 23 of the Tax Law for  
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DECISION

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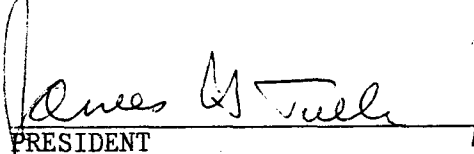
C. That petitioners have failed to sustain the burden of proof established by section 689(e) of the Tax Law which requires them to show that they are entitled to allocate income within and without New York State; therefore, all income derived from the above-stated activities is deemed to be New York source income.

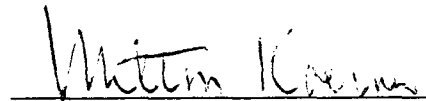
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DATED: Albany, New York

NOV 16 1979

STATE TAX COMMISSION

  
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