

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SAMUEL KOSMAN & RAE KOSMAN

:
:
:
:
AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the (Year(s) 1961 and 1962.

State of New York
County of Albany

Linda Wilson, 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 3rd day of August, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon SAMUEL KOSMAN & RAE KOSMAN (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Samuel Kosman and Rae Kosman
5101 Collins Avenue Apt. #9-B
Miami Beach, Florida 33140

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

3rd day of August, 1971.

Rae Zambrano

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

*Samuel & Rae Kosman
personal income &
Unincorporated Bus.
YEAR 1961-62*

In the Matter of the Petition

of
SAMUEL KOSMAN AND RAE KOSMAN:

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Personal Income and Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the (Year(s)1961 and 1962;

State of New York
County of Albany

Rae Zimmerman , 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 9th day of July , 19 71, she served the within
Notice of Decision (or Determination) by (certified) mail upon Samuel Kosman
and Rae Kosman (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Samuel Kosman and Rae Kosman
2316 Bay Drive
Miami Beach, Florida

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

9th day of July , 1971.

Linda Wilson

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SAMUEL KOSMAN AND RAE KOSMAN

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AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Personal Income and Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the (Year(s) 1961 and 1962;

State of New York
County of Albany

Rae Zimmerman , 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 9th day of July , 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon Arthur D.
Steinthal, C.P.A. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Arthur D. Steinthal, C.P.A.
400 Madison Avenue
New York, New York 10017

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

9th day of July , 1971

Linda Wilson

Rae Zimmerman

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
SAMUEL KOSMAN AND RAE KOSMAN : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 and of Unincorporated :
Business Taxes under Article 23 of :
the Tax Law for the Years 1961 and :
1962 :
:

Petitioners, Samuel Kosman and Rae Kosman, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 and unincorporated business taxes under Article 23 of the Tax Law for the years 1961 and 1962. (File number 2-8534341) A formal hearing was held before Solomon Sies, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on January 19, 1966 at 2:00 P.M. Petitioners appeared by Arthur D. Steinthal, C.P.A.

FINDINGS OF FACT

1. Petitioners, Samuel Kosman and Rae Kosman, filed joint New York State income tax non-resident returns for the years 1961 and 1962 on which they reported Federal adjusted gross income in the sums of \$61,884.00 and \$71,605.95 for the years 1961 and 1962 respectively and income attributable to New York sources in the sums of \$11,598.00 and \$9,509.27 for the years 1961 and 1962, respectively. Petitioner, Samuel Kosman, filed unincorporated business tax returns in which he reported his net profit from business attributable to New York State sources for the years 1961 and 1962.

2. On March 1, 1965, the Income Tax Bureau issued a statement of audit changes against petitioners, Samuel Kosman and Rae Kosman, imposing personal income tax upon their income from all sources during the years 1961 and 1962 upon the grounds that they were residents of

the State of New York during those years and unincorporated business tax upon the income received by petitioner, Samuel Kosman, during the years 1961 and 1962 from that portion of his activities as an independent insurance consultant carried on within New York State upon the ground that these activities constituted the carrying on of an unincorporated business and not the practice of a profession and accordingly issued a notice of deficiency in the sum of \$6,381.27.

3. Petitioners, Samuel Kosman and Rae Kosman, are not contesting the imposition of the unincorporated business taxes or the adjustment of net business income for the year 1962 in accordance with the Federal audit of their 1962 federal income tax return.

4. Petitioners, Samuel Kosman and Rae Kosman, spent less than 183 days in New York State during each of the years 1961 and 1962. During these years they maintained an office-apartment in New York City.

5. Petitioners, Samuel Kosman and Rae Kosman, lived in New Rochelle, New York, until 1958. In 1958 they discontinued this place of abode and moved to Miami Beach, Florida. They rented an apartment which they still occupied as of 1965. He was a registered voter in Dade County, Florida since 1960. All of their tax returns, passports, credit cards and other documents reflected the Florida address.

6. During the years 1961 and 1962 petitioner, Samuel Kosman, was president and chairman of the Board of Seaboard Life Insurance Company of America at a salary of \$17,500.00 a year. The company did not maintain a place of business and did not transact any business within New York State and he did not render any services within New York State on behalf of the company. The principal office of the company was in Florida.

7. During the years 1961 and 1962 petitioner, Samuel Kosman, was also engaged in business as an independent insurance consultant to various union welfare and pension funds. He had an office in New York City. He also had an office at Seaboard Life Insurance Company of America in Miami, Florida which he used in connection with his

activities as an independent insurance consultant. During the year 1961 his total receipts as a consultant were \$55,491.39 of which \$15,700.00 was received for services performed in New York State for pension funds located in New York State. During the year 1962 his total receipts as a consultant were \$45,199.96 of which \$15,699.96 was received for services performed in New York State for pension funds located in New York State. During the year 1961 the portion of business expenses allocated to New York State was \$4,102.00 and during the year 1962 was \$5,581.22. His net profit from business carried on in New York State was \$11,598.00 for the year 1961 and \$10,118.74 for the year 1962.

CONCLUSIONS OF LAW

A. That petitioners, Samuel Kosman and Rae Kosman, during the years 1961 and 1962 were not domiciled in New York State in accordance with the meaning and intent of Section 605(a)(i) of the Tax Law.

B. That petitioners, Samuel Kosman and Rae Kosman, during the years 1961 and 1962 were non-resident individuals in accordance with the meaning and intent of Section 605 of the Tax Law.

C. That since petitioners, Samuel Kosman and Rae Kosman, during the years 1961 and 1962 were non-resident individuals, only that portion of their adjusted gross income, derived or connected with New York sources was subject to personal income tax in accordance with the meaning and intent of Section 632(a) of the Tax Law.

D. That since petitioner, Samuel Kosman, in connection, with his business as an independent insurance consultant had an office within the State and an office without the State; he was entitled to apportion and allocate his income from said business for personal income tax purposes in accordance with the meaning and intent of Section 632(c) of the Tax Law and Section 131.12 of Title 20, New York Code Rules and Regulations.

E. That the only portion of petitioners, Samuel Kosman and Rae Kosman's, adjusted gross income derived from or connected with New York sources consisted of petitioner, Samuel Kosman's net business income as an independent insurance consultant for New York State pension funds amounting to \$11,598.00 for the year 1961 and \$10,118.70 for the year 1962.

F. That the adjustment of petitioners, Samuel Kosman and Rae Kosman's taxable income for the year 1962 to conform with the Federal audit of their Federal income tax return was properly made.

G. That the assessment of additional unincorporated business tax against petitioner, Samuel Kosman, was properly made.

That the petition of Samuel Kosman and Rae Kosman is granted to the extent of cancelling the assessment of \$3,857.27 for additional personal income due for the year 1961 and reducing the assessment for additional personal income tax for the year 1962 from \$1,588.83 to \$66.34 and the notice of deficiency issued March 1, 1965, is reduced to \$145.72 together with such interest as may be lawfully due.

DATED: Albany, New York

July 9, 1971

STATE TAX COMMISSION

W. J. Gellman
COMMISSIONER

James W. W. W. W.
COMMISSIONER

Milton K. K.
COMMISSIONER

MEMORANDUM

DATE:

7/21/71

TO: Mr. Louis Etlinger
c/o Floyd Worden
Income Tax Bureau
Room 104, Building #8

FROM: Paul B. Coburn, Hearing Officer
Hearing Unit
Room 214a, Building #9

RE: SAMUEL KOSMAN

SOCIAL SECURITY NO.:

086-05-5804

Please advise as to the last known address for the above named taxpayer.


Paul B. Coburn

Taxpayer's last known address is:

Per 1969 Return

5101 COLLINS AV APT # 9-B

MIAMI BEACH

FLORIDA 33140

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
ALBANY, N. Y. 12226

Return to
Paul B. Coburn
Law Bureau

Samuel Kosman

Moved, left No Address _____
Moved, Not Forwardable _____
Unclaimed _____ Refused _____
No Such Number _____ Vacant _____
Out of Business _____ Bldg. ~~Retired~~ _____
Addressee Unknown _____
No ~~Mail~~ Receipts _____
Route No. _____ Initials _____
410073

Samuel Kosman and Rae Kosman
216 Bay Drive
P.O. Box 100
Punta Gorda Beach, Florida

CERTIFIED
No. 592104
MAIL



REASON CHECKED
Unclaimed
Incorrect address
Moved, left no address
No ID card
Retired