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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR B. LEFFLER

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 and 23 of the
Tax Law for the Year(9) 1970.

State of New York
County of Albany

JANET MACK, 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 23rd day of December, 1974, she served the within
Notice of Decision (~~on Redetermination~~) by (certified) mail upon ARTHUR B. LEFFLER

(~~representative of~~) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. Arthur B. Leffler
57 Ogden Avenue
White Plains, New York 10605

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~~)
~~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

23rd day of December, 1974

Martha L. Suraco

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR B. LEFFLER

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 and 23 of the
Tax Law for the Year ~~xx~~ 1970.

State of New York
County of Albany

JANET MACK

, 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 23rd day of December, 1974, she served the within

Notice of Decision ~~(or Determination)~~ by (certified) mail upon FREDERICK E. THORNE, CPA

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Frederick E. Thorne, C.P.A.

624 Palisade Avenue

Yonkers, New York 10703

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

23rd day of December, 1974

Maitha Sunard

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
December 23, 1974

Mr. Arthur B. Loffler
57 Ogden Avenue
White Plains, New York 10605

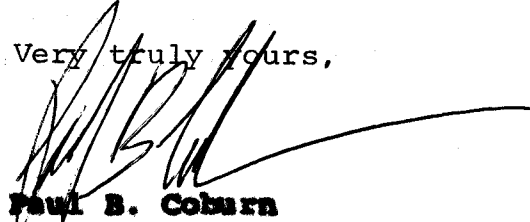
Dear Mr. Loffler:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **690 and 722** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,


Paul B. Coburn
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ARTHUR B. LEFFLER	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Personal Income and Unincorporated	:	
Business Taxes under Articles 22 and 23 of	:	
the Tax Law for the year 1970.	:	

Petitioner, Arthur B. Leffler, has filed a petition for redetermination of deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the year 1970. (File No. 0-58873892). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on October 24, 1974, at 2:45 P.M. Petitioner appeared by Frederick E. Thorne, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq. of counsel).

ISSUES

I. Did petitioner, Arthur B. Leffler's selling activities during the year 1970 constitute the carrying on of an unincorporated business?

II. Did petitioner, Arthur B. Leffler, have reasonable cause for failing to file a New York State unincorporated business tax return for the year 1970?

FINDINGS OF FACT

1. Petitioner, Arthur B. Leffler, and his wife filed a New York State combined income tax return for the year 1970. He did not file a New York State unincorporated business tax return for said year.

2. On May 21, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Arthur B. Leffler, imposing unincorporated business tax in the sum of \$1,265.90 upon the income received by him from his activities as a sales representative during the year 1970. It also imposed penalties in the total sum of \$443.07 for failure to file a New York State unincorporated business tax return and pay New York State unincorporated business tax for said year. It further imposed additional personal income tax in the sum of \$21.56 in connection with a disallowance of a portion of claimed employee business expenses, which latter item is not being contested by petitioner. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,892.73.

3. During the year 1970, petitioner, Arthur B. Leffler, was a leather goods salesman. He represented five firms in the sale of said merchandise. Two of the firms were affiliated. The products sold for each firm were noncompetitive. He did not maintain an office or have any employees.

4. During the year 1970, one of the firms for whom petitioner, Arthur B. Leffler, sold merchandise withheld Federal and New York State income taxes and social security tax from a portion of the commission income paid to him. It also covered him for workmen's compensation, unemployment, and group life insurance. He received approximately one-half of his gross compensation from this firm. The other firms for whom he sold merchandise did not withhold the aforesaid taxes from the commissions paid to him or carry the aforesaid types of insurance on him. He was not reimbursed for any of his business expenses. The firms for which he sold merchandise did not exercise any substantial direction or control over his sales activities or techniques or over the time he devoted to sales, except to limit the territory in which he could sell.

5. Petitioner, Arthur B. Leffler, was advised by his accountant that he was not required to file a New York State unincorporated business tax return for the year 1970.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Arthur B. Leffler, from the firms that he represented during the year 1970 constituted income from his regular business of selling leather goods and not compensation as an employee exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That the aforesaid activities of petitioner, Arthur B. Leffler, during the year 1970 constituted the carrying on of an unincorporated business and his income derived there was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

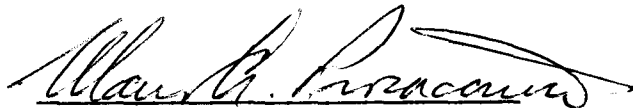
C. That petitioner, Arthur B. Leffler, had reasonable cause for not filing a New York State unincorporated business tax return for the year 1970, and, therefore, the penalties assessed pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law are waived.


D. That the petition of Arthur B. Leffler is granted to the extent of cancelling the penalties imposed pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law in the sum of \$443.07; that the Income Tax Bureau is hereby directed to accordingly modify the

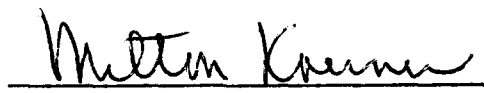
Notice of Deficiency issued May 21, 1973; and, that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
December 23, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER