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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CURTIS J. NEWMAN

:  
:  
: 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) 1960 & 1961. :

State of New York  
County of Albany

MARTHA FUNARO

, 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 7th day of February, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon CURTIS J. NEWMAN

(representative of) the petitioner in the within

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

wrapper addressed as follows:

Mr. Curtis J. Newman  
210 East 58th Street  
New York, New York

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

7th day of February, 1974

Joyce S. Van Patten

Martha Funaro





STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

Mario A. Procaccino

~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**February 7, 1974**

**Mr. Curtis J. Newman**  
**210 East 58th Street**  
**New York, New York**

**Dear Mr. Newman:**

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

Please take further notice that pursuant to  
Section(s) **690 & 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,

**L. Robert Leisner**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
CURTIS J. NEWMAN : DECISION  
for a 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 1960 and 1961. :

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Curtis J. Newman petitioned for a redetermination of deficiencies in personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1960 and 1961.

A formal hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on August 26, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Michael Dennis and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

Were the real estate activities of Curtis J. Newman in 1960 and 1961, subject to the unincorporated business tax? (The deficiency in personal income tax is not in issue.)

FINDINGS OF FACT

1. Petitioner, Curtis J. Newman, timely filed New York State income tax returns for the years 1960 and 1961.
2. A Notice of Determination of deficiencies in personal income taxes and unincorporated business taxes for the years 1960 and 1961 was issued on June 7, 1961, against petitioner, Curtis J. Newman, under File No. 1-3770771.
3. The taxpayer petitioned for redetermination of the deficiencies respecting the unincorporated business tax.

4. Curtis J. Newman, the taxpayer, became associated with the C. B. Snyder Realty Co. in October, 1957 in the land development and sales department. He was required to work from 10:00 a.m. to 6:00 p.m. five days a week.

5. The taxpayer was required to submit weekly reports.

6. It was compulsory to attend staff meetings each week.

7. The taxpayer was covered by unemployment insurance at C. B. Snyder Realty Co.

8. The taxpayer could not make sales without the approval of C. B. Snyder or any independent sales. During 1960 and 1961, the taxpayer had a guaranteed draw from C. B. Snyder. He was paid for sales and listings and development work. The taxpayer on April, 1961 became associated with the Sachar Development Company as vice-president in charge of land development and sales.

9. At the Sachar Development Company, the taxpayer was required to work from 10:00 a.m. to 6:00 p.m. five days a week. He received a weekly draw not repayable at any time. He was paid for listings and development work.

10. The taxpayer received commissions or incentives for his work during the years in issue.

11. The taxpayer had a brokers license throughout the period in issue, but he did no independent work or work other than for C. B. Snyder in the first instance and Sachar Development in the later period of time.

12. The taxpayer filed a Schedule "C" and took deductions for travel, conventions, expenses for use of part of his apartment for his work and laundry expenses.

#### CONCLUSIONS OF LAW

A. The taxpayer was an employee of C. B. Snyder Realty Co. during his work for that concern and he was an officer and employee

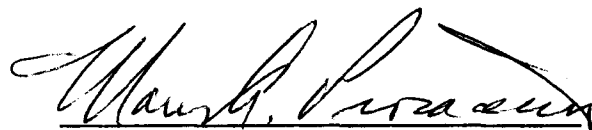
of the Sachar Development Company during 1961. His activities as such were not subject to unincorporated business tax.

B. The taxpayer's petition is sustained and it is determined that there are no deficiencies in unincorporated business tax against Curtis J. Newman for the years 1960 and 1961.

C. The determination of deficiencies in personal income tax is sustained, and interest shall be added to the income tax due until paid.

DATED: Albany, New York  
February 7, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER