

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM A. VAN SICLEN

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(s) 22 & 23 of the  
Tax Law for the Year(s) 1966

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

State of New York  
County of Albany

JOYCE S. VAN PATTEN, 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 2nd day of April, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon William A.

Van Siclen (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

Mr. William A. Van Siclen  
32-24 214th Street  
Bayside, New York 11361

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

2nd day of April, 1974.

Matthew J. J. J. J.

Joyce S. Van Patten



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

AREA CODE 518  
457-2655, 6, 7

STATE TAX COMMISSION  
Mario A. Procaccino  
~~XXXXXXXXXXXX~~ PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**April 2, 1974**

**Mr. William A. Van Siclen**  
**32-24 214th Street**  
**Bayside, New York 11361**

**Dear Mr. Van Siclen:**

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

Please take further notice that pursuant to **sections 690 & 722** of  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **4 Months** after  
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 relat-  
ing 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

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
of	:	
WILLIAM A. VAN SICLEN	:	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 Year 1966.	:	

---

Petitioner, William A. Van Siclen, has filed a petition 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 year 1966. (File No. 52597143). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on November 12, 1973, at 3:00 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

ISSUE

Did petitioner, William A. Van Siclen's activities as a stationery salesman during the period from June 1, 1966 to December 31, 1966, constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, William A. Van Siclen, and his wife filed a New York State income tax resident return for the year 1966. He also filed a New York State unincorporated business tax

return for the period from January 1, 1966 to May 30, 1966, in connection with his business as a stationery manufacturer's representative.

2. On March 29, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, William A. Van Siclen, imposing unincorporated business tax in the sum of \$307.39 upon the income received by him from his activities as a salesman for the entire year of 1966. It also imposed additional personal income tax for said year in the sum of \$35.08, which sum is not contested by petitioner and was paid by him. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency showing a balance still due of \$388.33.

3. Petitioner, William A. Van Siclen, conceded at the formal hearing that his business income from his activities as a stationery manufacturer's representative from January 1, 1966 to May 30, 1966, was subject to the New York State unincorporated business tax. This business was terminated on May 30, 1966.

4. During the period from June 1, 1966 to December 31, 1966, petitioner, William A. Van Siclen, was a stationery accessories salesman. He represented four or five unaffiliated firms in the sale of stationery accessories. The products sold for each firm were noncompetitive. He generally sold the product of the different firms to the same customers. He did not have any employees. He maintained an office in his home for

the storage of catalogues and records.

5. During the period from June 1, 1966 to December 31, 1966, the firms for whom petitioner, William A. Van Siclen, sold stationery supplies did not withhold Federal or New York State income taxes or social security tax from the commissions paid to him. They did not cover him for workmen's compensation or unemployment insurance. He was not reimbursed for any of his business expenses. He deducted expenses incurred in connection with his sales activities on Schedule "C" of his Federal income tax return. The firms for whom he sold merchandise did not exercise any substantial supervision 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.

#### CONCLUSIONS OF LAW

A. That the income received by petitioner, William A. Van Siclen, from the firms that he represented during the period from June 1, 1966 through December 31, 1966, constituted income from his regular business of selling stationery accessories 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, William A. Van Siclen, constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the


unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of William A. Van Siclen is denied and the Notice of Deficiency issued March 29, 1971, is sustained.

DATED: Albany, New York  
April 2, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER