

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEON A. MORRIS and MYRTLE MORRIS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income and
Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the Year ~~(six or Period)~~ 1965.:

State of New York
County of Albany

Catherine Steele, 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 15th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Leon A. Morris and Myrtle Morris ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Leon A. Morris
55 Arbor Lane
Roslyn Heights, 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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~ ~~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
15th day of September, 1976

Catherine Steele

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEON A. MORRIS and MYRTLE MORRIS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income and
Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the Year(s) ~~1964~~ ~~1965~~ 1965.

State of New York
County of Albany

Catherine Steele, 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 15th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Leon M. Chaiken, CPA

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Leon M. Chaiken, CPA
55 West 42nd 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 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
15th day of September, 1976.

Catherine Steele

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

September 15, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. Leon A. Morris
55 Arbor Lane
Roslyn Heights, New York

Dear Mr. & Mrs. Morris:

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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Paul B. Coburn
Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
LEON A. MORRIS and MYRTLE MORRIS : 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 1965. :
:

Petitioners, Leon A. and Myrtle Morris, 55 Arbor Lane, Roslyn Heights, New York, have 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 1965. (File No. 46138157). On December 13, 1973, a formal hearing was held in the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioners appeared by Leon M. Chaiken, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James A. Scott, Esq. of counsel).

ISSUES

I. Whether petitioners, Leon A. and Myrtle Morris, were entitled to deduct certain medical and business expenses, incurred in 1965, from their New York State income tax resident return for said year.

II. Whether petitioner, Leon A. Morris' activities as an insurance broker and salesman in the year 1965 constituted the carrying on of an unincorporated business.

FINDINGS OF FACT

1. Petitioners, Leon A. and Myrtle Morris, filed a New York State income tax resident return for the year 1965. They did not file a New York State unincorporated business tax return for said year.

2. On January 29, 1968, the Income Tax Bureau issued two Statements of Audit Changes, one against petitioner, Leon A. Morris, imposing unincorporated business tax upon the income received by him as an insurance broker and salesman in the year 1965, upon the grounds that his activities as an insurance broker and salesman constituted the carrying on of an unincorporated business. The second Statement of Audit Changes was issued against petitioners, Leon A. Morris and Myrtle Morris, imposing additional personal income tax for the year 1965, upon the grounds that they failed to substantiate certain medical expenses and business expenses claimed. The Income Tax Bureau accordingly issued corresponding notices of deficiency in the sum of \$1,148.40 and \$1,030.31.

3. Petitioner, Leon A. Morris, was an insurance broker and salesman. During the year 1965 petitioner's activities were primarily connected with his sale of commercial insurance to clients for Harry Schultz and Company. He received a weekly salary from Harry Schultz and Company from which Federal and State taxes were

withheld. Petitioner was under the direct supervision and control of Harry Schultz and Company. They reimbursed him for certain business expenses that he incurred in connection with his activities for them.

4. During the year 1965, petitioner, Leon A. Morris, also received commissions from the Equitable and Capital Insurance Companies for the sale of insurance. Petitioner's association with Capital Insurance Company terminated in January, 1965. The activities of petitioner for Equitable Life Insurance Company consisted only of the sale of life insurance.

5. During the year 1965, petitioner, Leon A. Morris, maintained an office in his home from which he conducted business. In addition, he was provided an office by the Harry Schultz and Company. He has never filed a schedule "C" for Federal income tax purposes.

6. Petitioners have failed to substantiate their claims for medical and business expenses.

CONCLUSIONS OF LAW

A. That petitioners, Leon A. Morris and Myrtle Morris, failed to demonstrate that they were entitled to deduct medical expenses and certain business expenses claimed on their 1965 New York State income tax resident return.

B. That the activities of petitioner, Leon A. Morris, during the year 1965 in connection with the Equitable Life and Capital Insurance Companies, constituted the carrying on of an unincorporated business within the meaning and intent of section 703 of the Tax Law.

C. That petitioner, Leon A. Morris, was an employee of Harry Schultz and Company.

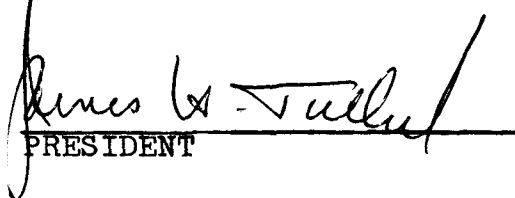
D. The revised Notice of Deficiency, dated January 29, 1968, with respect to the personal income taxes of Leon A. Morris and Myrtle Morris is sustained.

E. The revised Notice of Deficiency of January 28, 1968, imposing an unincorporated business tax on petitioner, Leon A. Morris, is denied.

F. The petition of Leon A. Morris and Myrtle Morris is denied except to the extent so granted.

DATED: Albany, New York
September 15, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER