

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
KENNETH J. RAWSON

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) ~~or Period(s)~~ 1968, :
1969, 1970, 1971 and 1972.

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 29th day of November, 1976, she served the within
Notice of Decision by (certified) mail upon Kenneth J. Rawson

~~representative of~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Kenneth J. Rawson
2 Thornwood 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 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

29th day of November, 1976

Catherine Steele

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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KENNETH J. RAWSON

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) ~~1968~~ 1968, :
1969, 1970, 1971 and 1972.

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 29th day of November, 1976, she served the within Notice of Decision by (certified) mail upon O. John Rogge (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: O. John Rogge, Esq.
777 Third 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 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

29th day of November, 1976

Janet Mack

Catherine Steele



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

November 29, 1976

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

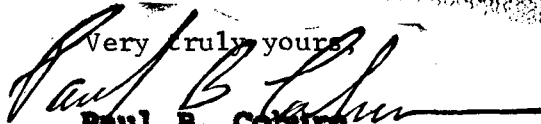
Mr. Kenneth J. Rawson
2 Thornwood Lane
Roslyn Heights, New York

Dear Mr. Rawson:

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
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 Petitions	:	
of	:	
KENNETH J. RAWSON	:	DECISION
for 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 1968, 1969, 1970, 1971 and	:	
1972.	:	

Petitioner, Kenneth J. Rawson, residing at 2 Thornwood Lane, Roslyn Heights, New York, has filed petitions for 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 1968, 1969, 1970, 1971 and 1972. (File No. 00613). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 15, 1976, at 2:45 P.M. Petitioner appeared by O. John Rogge, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Arthur R. Rosen, Esq., of counsel).

ISSUE

Whether petitioner, Kenneth J. Rawson's selling activities during the years 1968, 1969, 1970, 1971 and 1972 constituted the carrying on of an unincorporated business.

FINDINGS OF FACT

1. Petitioner, Kenneth J. Rawson, and his wife, filed New York State income tax resident returns for the years 1968 through 1972. He did not file New York State unincorporated business tax returns for said years.

2. On September 25, 1972, the Income Tax Bureau issued a Statement of Audit Changes to petitioner, Kenneth J. Rawson, for the years 1968, 1969 and 1970 stating that the income from his activities as a sales representative constitute the carrying on of an unincorporated business and computing unincorporated business tax due in the sum of \$3,808.19, after application of a \$150.00 credit for an overpayment of estimated income taxes. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency against him in the sum of \$3,808.19.

3. On February 24, 1975, the Income Tax Bureau issued a Statement of Audit Changes to petitioner, Kenneth J. Rawson, for the years 1971 and 1972 stating that the income from his activities as a sales representative constitute the carrying on of an unincorporated business and computing the unincorporated business tax due in the sum of \$3,428.13. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency against him in the sum of \$3,428.13.

4. Petitioner, Kenneth J. Rawson, was a paper products salesman during the years 1968 through 1972. He represented no less than five and as many as seven paper products firms in each of these years. The products sold for each firm were noncompetitive. One of the firms, Superior Tape Corporation, provided hospitalization, medical and disability insurance and another firm, Adams Industries, Inc. provided a car and a deferred compensation agreement. No firm withheld Federal or New York State income taxes or social security taxes. Petitioner, Kenneth J. Rawson, incorporated his business in 1972, and continued to perform the same services he did prior to incorporation.

5. Petitioner, Kenneth J. Rawson, reported all his income derived from the sale of paper products as "business income" on his New York State personal income tax returns. He deducted unreimbursed business expenses incurred in connection with his sales activities on Schedule "C" of his personal income tax returns. Included therein, was an office at home and the related expenses thereof. The firms for whom he sold paper products 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.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Kenneth J. Rawson, from the firms that he represented during the years 1968 through 1972

constituted income from his regular business of selling paper products 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.

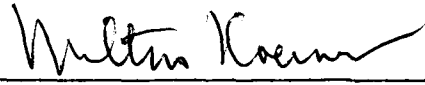
B. That the aforesaid activities of petitioner, Kenneth J. Rawson, during the years 1968 through 1972 constituted the carrying on of an unincorporated business and the income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

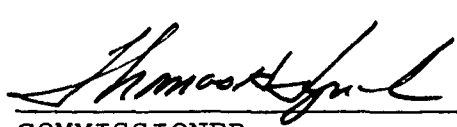
C. That the petitions of Kenneth J. Rawson are denied and the Notices of Deficiency issued September 25, 1972 and February 24, 1975, are sustained.

DATED: Albany, New York
November 29, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER