

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN J. MULDER and HELEN MULDER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund  
of Personal Income & Unincorporated Business  
Taxes under Article(s) 22 & 23 of the  
Tax Law for the Year ~~(xxxx Period(s))~~ 1968 :

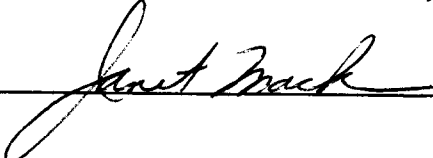
State of New York  
County of Albany

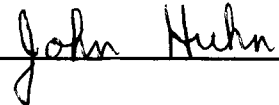
John Huhn , being duly sworn, deposes and says that  
~~she~~ he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 1 day of September , 1977, ~~she~~ he served the within  
Notice of Decision by (certified) mail upon John J. Mulder and  
Helen Mulder ~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. & Mrs. John Mulder  
P.O. Box 407  
Grand Haven, Michigan 49417  
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)~~  
~~xxxxxxx~~ petitioner herein and that the address set forth on said wrapper is the  
last known address of the ~~(representative of)~~ petitioner.

Sworn to before me this

1 day of September , 1977.

  
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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN J. MULDER and HELEN MULDER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of **personal Income & Unincorporated Business**  
Taxes under Article(s) 22 & 23 of the  
Tax Law for the Year ~~(xxxxxx)~~ 1968 :

State of New York  
County of Albany

John Huhn, 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 1 day of September, 1977, she served the within  
Notice of Decision by (certified) mail upon Joseph H. Murphy, Esq.

(representative of) the petitioner in the within proceeding,

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

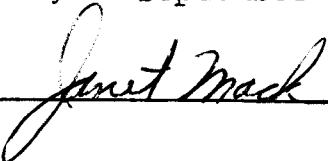
as follows: Joseph H. Murphy, Esq.  
Hancock, Estabrook, Ryan, Shove & Hust  
One Mony Plaza

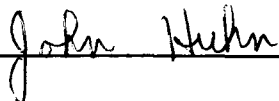
Syracuse, New York 13202  
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

1 day of September, 1977.

  
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STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

**September 1, 1977**

**Mr. & Mrs. John Mulder  
P.O. Box 407  
Grand Haven, Michigan 49417**

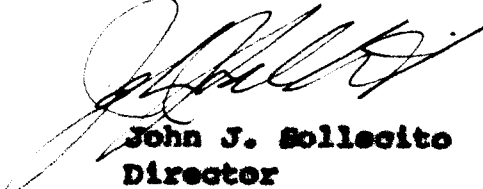
**Dear Mr. & Mrs. Mulder:**

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **690 & 722** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

  
**John J. Sollecito  
Director  
Tax Appeals Bureau**

cc: Petitioner's Representative  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
JOHN J. MULDER and HELEN MULDER : 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 Year 1968. :

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Petitioners, John J. Mulder and Helen Mulder, 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 1968. (File No. 01874).

The case was submitted for decision based on the information contained in the file. The State Tax Commission has duly considered all of the information contained in the file and its decision follows:

ISSUES

I. Whether renewal premiums paid in 1968 for insurance written prior to termination of the contract of a general insurance agent as of December 31, 1967, were taxable as income from an unincorporated business to a non-resident taxpayer.

II. Whether the gain on the sale of business property as of December 31, 1967, negotiations concerning which were completed during 1968 was subject to New York State income and unincorporated business taxes for the year 1968.

FINDINGS OF FACT

1. The petitioners, John J. Mulder and Helen Mulder, filed a non-resident New York State income tax return for the calendar year of 1968 on May 15, 1969. No return was filed for unincorporated business tax for 1968. No payment of taxes was made when filing the income tax return.

2. A Notice of Deficiency in personal income and unincorporated business taxes for the year 1968 was issued on May 24, 1971 against the taxpayers, John J. Mulder and Helen Mulder, under File No. 8-29210019 for income tax of \$5,480.82 plus interest of \$72.00 and a penalty of \$693.16 for a total demand of \$6,245.98; and for unincorporated business tax of \$2,343.99 plus interest of \$296.44 and penalty of \$586.00 totalling \$3,226.43.

3. The taxpayers timely petitioned for redetermination of the deficiencies.

4. The petitioner, John J. Mulder, was a general insurance agent residing during 1968 with his wife, Helen Mulder, in New Jersey, and maintained offices in New York City. The taxpayer was under a written contract with Mutual Life Insurance Company of Newark, New Jersey, which the parties terminated as of December 31, 1967.

5. By the terms of the contract, the taxpayer, John J. Mulder, was entitled to receive monies from the insurance company as a certain percentage of renewal premiums paid on insurance policies the taxpayer had written prior to the termination of his contract with the insurance company. After December 31, 1967, the petitioner performed no services as insurance agent for the afore-mentioned company.

6. During 1968, the taxpayer negotiated the gainful sale of his office furniture in New York City to the Mutual Life Insurance Company and received payment thereof in October 1968. Possession and title were transferred as of December 31, 1967.

#### CONCLUSIONS OF LAW

A. That the taxpayer, John J. Mulder, was a single proprietor engaged during 1968 in an unincorporated business within the meaning of sec. 703(a) of Article 23 of the Tax Law in that the business was "...being liquidated" in 1968.

B. That the income received in 1968 by the non-resident taxpayer, John J. Mulder, from the sale of business property and as renewal premiums were received while he was engaged in the conduct of unincorporated business in New York State and was subject to income and unincorporated business taxes under Articles 22 and 23 of the Tax Law.

C. That the petition of John J. Mulder and Helen Mulder is denied.

DATED: Albany, New York

September 1, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER