

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

IRA SOBLICK

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

For a Redetermination of a Deficiency or
a Refund of **Unincorporated Business** :
Taxes under Article ~~(x)~~ 23 of the
Tax Law for the Year(s) 1967, 1968, 1969
and 1970.

State of New York
County of Albany

JANET MACK

, 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 January, 1975, she served the within
Notice of Decision (~~or Determination~~) by (certified) mail upon IRA SOBLICK

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Ira Soblick
18 Gardenia Lane
Hicksville, 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)~~
~~xx~~ 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 January, 1975

Eatherine D. Manly

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

IRA SOBLICK

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

For a Redetermination of a Deficiency or
a Refund of **Unincorporated Business**:
Taxes under Article ~~(s)~~ 23 of the
Tax Law for the Year(s) 1967, 1968 :
1969 and 1970.

State of New York
County of Albany

JANET MACK

, 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 January , 19 75, she served the within

Notice of Decision ~~(or Determination)~~ by (certified) mail upon MANUEL S. FISHMAN, C.P.A.

(representative of) the petitioner in the within

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

wrapper addressed as follows:

Manuel S. Fishman, C.P.A.
100 Merrick Road
Rockville Centre, New York 11570

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

29th day of January , 1975.

Katherine D. Branley

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
January 29, 1975

Mr. Ira Soblick
18 Gardenia Lane
Hicksville, New York

Dear Mr. Soblick:

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

Please take further notice that pursuant to
Section (a) **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,

Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petitions	:	
of	:	
IRA SOBLICK	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1967, 1968, 1969 and 1970.	:	

Petitioner, Ira Soblick, has filed petitions for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1967, 1968, 1969 and 1970. (File Nos. 9-34526659 and 0-54467629). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on October 3, 1974, at 2:45 P.M. Petitioner appeared by Manuel S. Fishman, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUES

I. Did petitioner, Ira Soblick's selling activities during the years 1967, 1968, 1969 and 1970, constitute the carrying on of an unincorporated business?

II. Did petitioner, Ira Soblick, have reasonable cause for failing to file New York State unincorporated business tax returns for the years 1967, 1968 and 1970?

FINDINGS OF FACT

1. Petitioner, Ira Soblick, and his wife filed New York State income tax resident returns for the years 1967, 1968, 1969 and 1970. He did not file New York State unincorporated business tax returns for said years.

2. On April 10, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Ira Soblick, imposing unincorporated business tax in the total sum of \$1,587.35, upon the income received by him from his activities as a salesman during the years 1967, 1968 and 1969. It also imposed penalties in the sum of \$57.96 for the year 1967 and \$149.94 for the year 1968, for failure to file New York State unincorporated business tax returns and pay New York State unincorporated business tax for said years. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$2,048.39.

3. On June 25, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Ira Soblick, imposing unincorporated business tax in the sum of \$582.77, upon the income received by him from his activities as a salesman during the year 1970. It also imposed penalties in the sum of \$209.79 for failure to file a New York State unincorporated business tax return and pay New York State unincorporated business tax for said year. It further imposed additional personal income tax in the sum of \$31.44, which adjustment is not being contested by petitioner. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$904.85.

4. During the years 1967, 1968, 1969 and 1970, petitioner, Ira Soblick, was a men's sportswear salesman. He sold men's sportswear for several unaffiliated firms. The products sold by him for each firm were noncompetitive. He did not have any employees. He maintained an office in his home.

5. During the years 1967, 1968, 1969 and 1970, the firms for whom petitioner, Ira Soblick, sold men's sportswear did not withhold Federal or New York State income taxes or social security tax from the commissions paid to him. He did styling and design work for one of the firms but did not receive any compensation for said work. They did not cover him for workmen's compensation or unemployment insurance. One of the firms covered him under their group health and life insurance policies. They did not reimburse him for any of his business expenses. He deducted expenses incurred in connection with his sales activities on Schedule "C" of his Federal income tax returns. He maintained a self-employment retirement plan. On his New York State income tax returns for said years, he listed his commission income as "business income" and he stated that he was "self-employed". The firms for whom he sold men's sportswear did not exercise any substantial direction and control over his sales activities and techniques or over the time that he devoted to sales, except to limit the territory in which he could sell.

6. Petitioner, Ira Soblick, was advised by his accountant that he was not required to file New York State unincorporated business tax returns for the years 1967, 1968, 1969 and 1970.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Ira Soblick, from the firms that he represented during the years 1967, 1968, 1969 and 1970, constituted income from his regular business of selling men's sportswear 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, Ira Soblick, during the years 1967, 1968, 1969 and 1970, 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.

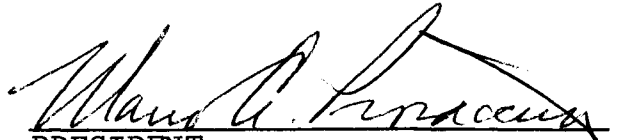
C. That petitioner, Ira Soblick, had reasonable cause for failing to file New York State unincorporated business tax returns for the years 1967, 1968 and 1970, and, therefore, the penalties imposed for the year 1967, pursuant to former section 685(a) of the Tax Law and for the years 1968 and 1970, pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law are waived.

D. That the petitions of Ira Soblick are granted to the extent of cancelling the penalty imposed pursuant to former section 685(a) of the Tax Law for the year 1967 in the sum of \$57.96, the penalties imposed pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law for the year 1968 in the total sum of \$149.94 and the penalties imposed pursuant to sections 685(a)(1)

and 685(a)(2) of the Tax Law for the year 1970 in the total sum of \$209.79; that the Income Tax Bureau is hereby directed to accordingly modify the notices of deficiency issued April 10, 1972, and June 25, 1973; and, that except as so granted, the petitions of Ira Soblick are in all other respects denied.

DATED: Albany, New York
January 29, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER