

STATE OF NEW YORK

STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION

OF

STEPHEN H. CAMP, Jr.

FOR REVISION OR REFUND OF UNINCORPORATED  
BUSINESS TAXES UNDER ARTICLE 16-A OF THE  
TAX LAW FOR THE YEAR 1956.  
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Stephen H. Camp, Jr., the taxpayer herein, having filed a timely application for revision or refund of unincorporated business taxes under Article 16-A of the Tax Law for the year 1956; a notice of hearing having been mailed to the taxpayer herein on July 2, 1964 scheduling a formal hearing for July 14, 1964 at 80 Centre Street, New York City, N.Y. before Solomon Sles, Hearing Officer of the Department of Taxation and Finance; that the taxpayer having defaulted in appearance at the aforementioned scheduled hearing and the matter having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer filed a 1956 New York State income tax non-resident return, wherein he set forth on Item 10 thereof income from two different sources and indicated his employment as insurance agent; that the taxpayer did not file any unincorporated business tax return for the year 1956; that on April 22, 1958, the Department of Taxation and Finance wrote to the taxpayer requesting that he furnish copies of the contracts or agreements under which the income reported on Item 10 was received, that he explain in detail the basis of said income and also furnish information as to the deductions claimed for salary of \$3,900.00 and fees in the amount of \$1,500.00 in connection with said income; that the taxpayer failed to furnish said

information; that information was received from H. Holschm Source Agency, one of the principals from whom the taxpayer reported receiving salary income in the sum of \$13,540.93 to the effect that the taxpayer was not an employee of said firm, but was considered by them to be an independent agent; that the compensation paid to him was strictly on a commission basis; that this commission was earned as a result of solicitation of life insurance, which the taxpayer did for a number of companies; that the aforementioned agency is only one of several with whom he placed business and they had no control over his sales activities; that on October 22, 1959 the Department of Taxation and Finance on the basis of the above information made an additional assessment of unincorporated business taxes against the taxpayer for the year 1956 (Assessment No. D-481349) on the ground that his activities as an independent insurance agent constitutes the carrying on of an unincorporated business, the income from which is subject to unincorporated business tax.

(2) That the taxpayer was an independent insurance agent during the year 1956 soliciting life insurance for two principals; that said principals did not exercise sufficient supervision or control over the method or means employed by the taxpayer in conducting his activities for said principals so as to constitute an employer-employee relationship between the parties.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

**DETERMINES:**

(A) That the activities of the taxpayer as an independent insurance agent in accordance with Finding (2) above constituted the carrying on of an unincorporated business; that said business was carried on wholly within the State of New York and that the taxpayer's income therefrom was

subject to unincorporated business taxes within the intent and meaning of Section 386, Article 16-A of the Tax Law.

(B) That, accordingly, the assessment is correct; that said assessment (Assessment No. B-681349 for the year 1956) does not include any tax or other charge which could not have been lawfully demanded and that the taxpayer's application filed with respect to said assessment be and the same is hereby denied.

DATED: Albany, New York on the 25th day of March , 1965 .

**STATE TAX COMMISSION**

/s/

JOSEPH H. MURPHY

~~Commissioner~~

*Charles T. ...*

~~Commissioner~~

~~Commissioner~~