L 9 (6-65)

Unincorp. Bus. Tax
Determinations A-Z
Inglis, John T.

BUREAU OF LAW

MEMORANDUM

TO: Commissioners Murphy, Macduff and Conlon

FROM: Vincent P. Molineaux, Hearing Officer

SUBJECT: John T. Inglis
Petition for redetermination of a deficiency of unincorporated business tax under Article 23 of the Tax Law for the year 1963

A hearing on the above matter was scheduled to be held before me at the Syracuse District office of the State Tax Commission on August 9, 1967 and no appearance was made by or on behalf of the taxpayer.

The question involved is whether petitioner's income as a manufacturer's representative is subject to unincorporated business tax under Article 23 of the Tax Law.

Petitioner on his return for 1963 describes his occupation as a manufacturer's representative and does not file any receipts for withholding tax.

The petition for redetermination states that terminology of contracts prevents petitioner from doing business and refers to "attached." No exhibit was submitted. It further states that petitioner carried no stocks or inventory of merchandise, had no employees, and could bind no one to contract.

At an informal conference on July 5, 1966, petitioner stated that in the year 1963, he represented four principals; they did not withhold income or social security taxes; no provision is made for division of his time and he did not indicate sufficient direction or control to denote an employer-employee relationship.

Based upon the foregoing, I recommend that the decision of the Commission denying the petition for redetermination in the above case be substantially in the form submitted herewith.

/S/ VINCENT P. MOLINEAUX
Hearing Officer

VPM:lo

September 13, 1967

9-18-67

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE PETITION

OF

JOHN T. INGLIS

FOR REDETERMINATION OF A DEFICIENCY OR FOR REFUND OF UNINCORPORATED BUSINESS TAXES UNDER ARTICLE 23 OF THE TAX LAW FOR THE YEAR 1963

The taxpayer, John T. Inglis, having filed a petition for redetermination of a deficiency or for refund of taxes for the year 1963 and a hearing having been scheduled thereon at the office of the State Tax Commission, Syracuse, New York for the ninth day of August, 1967, and no appearance having been made on behalf of the taxpayer, and the documents on file having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer, John T. Inglis, filed a resident joint return of income with his wife for the year 1963, on which the amount shown to be due was paid, and that no return was filed for unincorporated business tax.

(2) That on May 2, 1966 the State Tax Commission issued a statement of audit changes for the year 1963 based upon income received by the taxpayer as a manufacturer's representative, reported as personal income, considered as income from unincorporated business and subject to unincorporated business tax under the provisions of Article 23 of the Tax Law in the amount of $212.04 with interest of $30.04.

(3) That petitioner describes his occupation as manufacturer's representative for four principals, that the

principals do not withhold income for social security taxes, no provision is made for use of divisions of taxpayer's time and there is no indication of direction and control to denote employer and employee relationship.

Based upon the foregoing findings, the State Tax Commission hereby

DECIDES:

(A) That the notice of deficiency determining unincorporated business tax for the year 1963 is correct and is hereby affirmed together with any additional interest and other amounts which may be lawfully due and owing thereon.

(B) That the taxpayer's petition for redetermination of deficiency for the year 1963 be and the same is hereby denied.

Dated: Albany, New York this 27th day of September, 1967.

STATE TAX COMMISSION

/s/ JOSEPH H. MURPHY
PRESIDENT

/s/ JAMES R. MACDUFF
COMMISSIONER

WALTER MACLYN CONLON
/s/
COMMISSIONER