

STATE OF NEW YORK
STATE TAX COMMISSION

Addis
U.B.T.
1970

In the Matter of the Petition

of

Nathaniel Addis

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) 1960, 1961 & 1962

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

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State of New York
County of Albany

Claire A. Draves, 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 30th day of November, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Louis Weissman (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Louis Weissman
2 Park Place
New York, New York 10016
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

30th day of November, 1970.

Janet Wright

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Nathaniel Addis

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) 1960, 1961 &
1962

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

State of New York
County of Albany

Claire A. Draves , 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 30th day of November , 1970 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Nathaniel Addis

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Nathaniel Addis
185-10 80th Street
Jamaica, 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) 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

30th day of November , 19 70

James Wright

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
NATHANIEL ADDIS
for a Redetermination of a Deficiency
or for Refund of Unincorporated Busi-
ness Taxes under Article 23 of the Tax
Law for the years 1960, 1961 and 1962

Nathaniel Addis has petitioned for a redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for years 1960, 1961 and 1962. A formal hearing was held in the offices of the State Tax Commission in the City of New York on September 9, 1969. The petitioner appeared and was represented by Louis Weissman, C.P.A., and the Income Tax Bureau was represented by Edward H. Best, Esq., (Albert J. Rossi, Esq. of counsel).

FINDINGS OF FACT

1. The petitioner did not file Unincorporated Business Tax Returns for the tax years 1960, 1961 and 1962.
2. On February 14, 1966, the Income Tax Bureau issued notices of deficiency for the tax years 1960, 1961 and 1962 as follows: \$739.19 for the tax year 1960, \$1441.17 for the tax year 1961, and \$1427.54 for the tax year 1962. These totals included the statutory interest rates.
3. On April 19, 1966, the petitioner filed a petition for redetermination of deficiency for the tax years 1960, 1961 and 1962.
4. For the tax years involved the petitioner was a sales representative for Leeds Travelwear, Inc. and several subsidiaries of Leeds. Leeds and its subsidiaries are engaged in the manufacture and sale of zippered luggage bags and other zippered carrying bags.
5. The petitioner received a commission on the volume of his sales for Leeds and also received a 1% override commission on sales

by other salesmen who dealt with Leeds through the petitioner.

6. In 1960, 1961 and 1962 the taxpayer filed Federal Income Tax Returns in which he listed himself as a sales representative and claimed business deductions equalling approximately 50% of his gross receipts for each year.

7. The petitioner employed an assistant to aid him in sales in the New York City area. The petitioner paid the assistant for sales made by him. Such payments to this assistant were listed as "commissions" by the petitioner on Schedule "C" of his Federal Returns.

8. Leeds did not withhold any amounts from the petitioner's earnings for federal income tax or social security purposes.

9. Petitioner's principals do not exercise a degree of direction and control over him consistent with an employment relationship. Petitioner is deemed not to be an employee of his principals.

DECISION

A. The business activities of the petitioner Nathaniel Addis constitute the carrying on of an unincorporated business within the meaning and intent of Article 23 of the Tax Law, and the resulting income is subject to unincorporated business taxes.

B. The petition for redetermination is denied.

DATED: Albany, New York
November 27, 1970

STATE TAX COMMISSION

Norman Gallman

COMMISSIONER

Bruce Manley

COMMISSIONER

William Koehn

COMMISSIONER