

STATE OF NEW YORK
STATE TAX COMMISSION

Fried
UBT-1970

In the Matter of the Petition

Sol & Edith Fried
d/b/a Canterbury Watch Co

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) 1961 & 1962

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

Leesbrook
CCH
99-332

State of New York
County of Albany

Janet Wright, 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 Irving Satty, CPA

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Irving Satty, CPA
Satty & Frankel, CPA's
300 West 55th Street
New York, 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, 1970.

Lawrence A. Newman

Janet Wright

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

Sol & Edith ^{of} Fried
d/b/a Canterbury Watch Co

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a Refund of Unincorporated Business
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) 1961 & 1962

State of New York
County of Albany

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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 Sol & Edith
Fried (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Sol & Edith Fried
Canterbury Watch Co
15 Maiden Lane
New York, 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.

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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

Barbara A. Newman

Janet Wright

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
SOL AND EDITH FRIED	:	DECISION
d/b/a Canterbury Watch	:	
Company	:	
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1961 and 1962	:	

The taxpayers have petitioned for a redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1961 and 1962. A formal hearing was held before Francis X. Boylan, Hearing Officer, in the offices of the State Tax Commission in the City of New York on June 10, 1969. The petitioners appeared through Irving Satty, CPA and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of counsel).

FINDINGS OF FACT

1. The issue in this case is whether the taxpayers maintained a bona fide place of business outside the State of New York, thereby allowing allocation of income for the purpose of unincorporated business taxes.
2. Taxpayers maintain an office in New York City from which they control all business activities, both inside and outside New York State.
3. Most of the taxpayers' business income is from sales in Puerto Rico.
4. Taxpayers employed a sales agent in Puerto Rico. This agent leased an office in Puerto Rico and was reimbursed by the taxpayers for the rent. The agent worked on a commission basis and paid his employees' salaries out of pocket without reimbursement.

The taxpayers did not withhold any amount of money from the agent's commissions for any taxes.

5. Taxpayer's agent maintained a minimum amount of merchandise on hand. Most sales in Puerto Rico were by orders which the agent forwarded to the New York office. Merchandise was then forwarded, in the great majority of cases, direct from the New York office to the customer.

6. The company's bookkeeping was completely conducted at the New York office.

7. The taxpayers and the agent had no written agreement. The agent's mode of operation was left entirely to himself in the management of his affairs.

8. There was no telephone in the office in Puerto Rico during the years in question. The agent used a telephone located in a restaurant next door.

9. For the years 1961 and 1962, the taxpayers filed unincorporated business tax returns in which they allocated the business income of the company by deducting from income subject to unincorporated business tax that income derived from orders procured by the agent in Puerto Rico.

10. An audit of the petitioners' tax returns for the years in question resulted in a determination that income from sales in Puerto Rico was subject to New York unincorporated business tax. Accordingly, a notice of deficiency was issued June 1, 1964, file # P-709 in the amount of \$843.43 plus interest.

DECISION

A. The taxpayers did not maintain a bona fide office outside the State of New York. Therefore, business income cannot be allocated under Article 23 of the Tax Law and the resulting income from sales in Puerto Rico is subject to New York unincorporated business tax.

B. The notice of deficiency is sustained and the petition is denied.

DATED: Albany, New York
November 27, 1970

STATE TAX COMMISSION

Norman Gelman

COMMISSIONER

Bruce Manley

COMMISSIONER

Wilton Krumm

COMMISSIONER



STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

AREA CODE 518
457-2655, 6, 7

Albany, New York

November 30, 1970

Sol & Edith Fried
d/b/a Canterbury Watch Company
15 Maiden Lane
New York, New York

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

Please take further notice that pursuant to **Section 722 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
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 relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

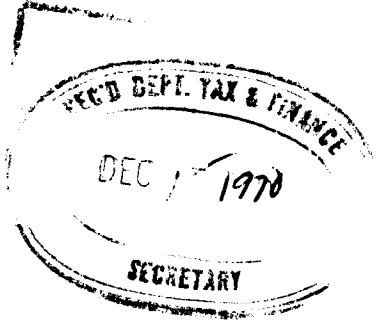
Lawrence A. Newman

Fried
STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO



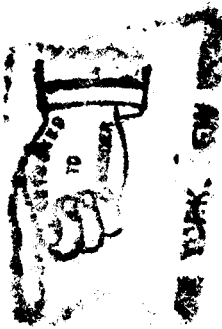
AD 32 (9-68) 80M

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12226



Irving Satty, CPA
Satty & Frankel CPA's
300 West 55 Street
New York, New York

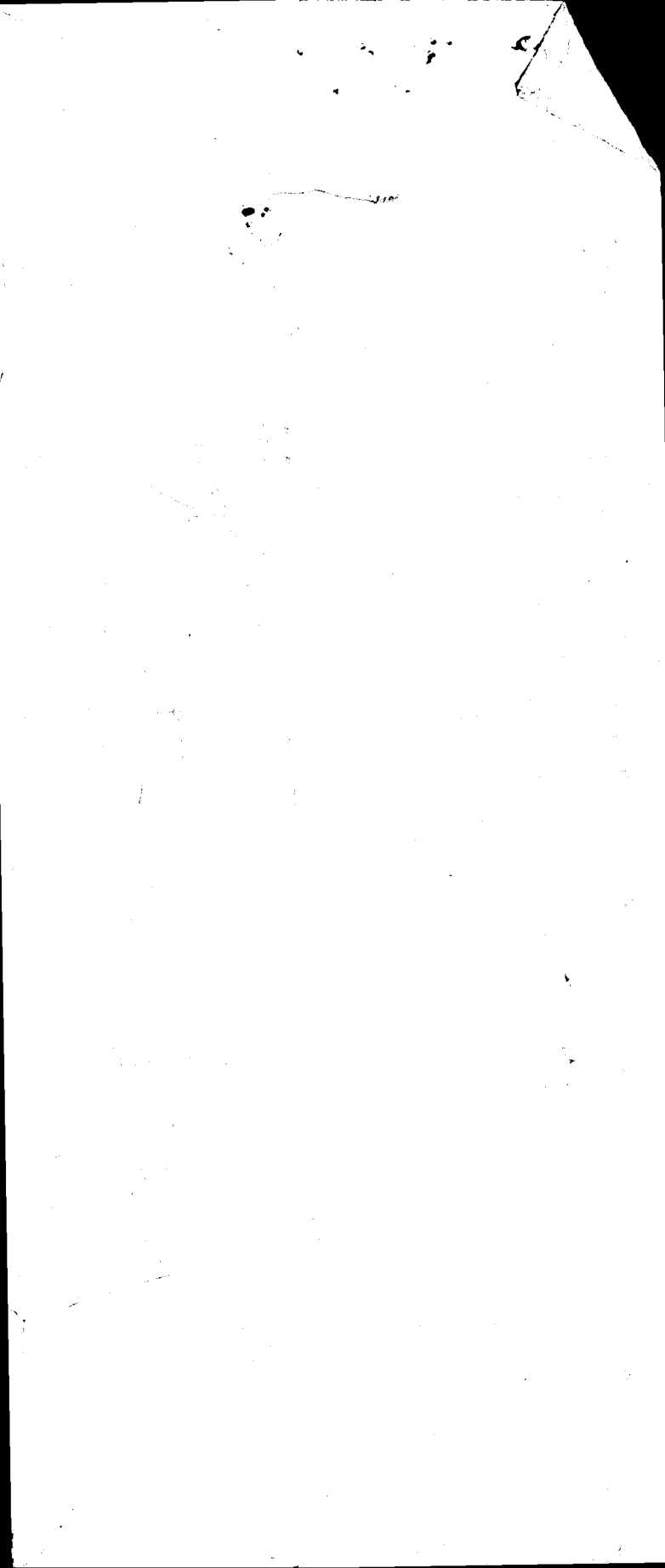
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NOT IN DIRECTORY
RADIO CITY STATION

CERTIFIED

No 237693

MAIL



STATE OF NEW YORK

STATE TAX COMMISSION

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