

STATE OF NEW YORK
STATE TAX COMMISSION

Goodman, Seymour
U.B.T.
Article 23
1970

In the Matter of the Petition

of

SEYMOUR GOODMAN

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 :

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

State of New York
County of Albany

Linda Wilson , 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 December , 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon SEYMOUR GOODMAN

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
Seymour Goodman
wrapper addressed as follows: 60 Heather Drive
Roslyn, New York 11576

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 December , 1970

Bartha Sunard

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SEYMOUR GOODMAN

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

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
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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 29th day of December, 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon SEYMOUR GOODMAN

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: 120 West 42nd Street
New York 36, 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

29th day of December, 1970.

Keith Fuxaro

Linda Wilson

STATE TAX COMMISSION

STATE OF NEW YORK

In the Matter of the Petition	:	
of	:	
SEYMOUR GOODMAN	:	DECISION
for Redetermination of Deficiency	:	
or for Refund of Unincorporated	:	
Business Taxes under Article 23 of	:	
the Tax Law for the Year 1960	:	

Petitioner, Seymour Goodman, has filed a petition for redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1960. (File # 5731146) A formal hearing was held before Vincent P. Molineaux, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on February 19, 1965 at 10:30 A.M. Petitioner, Seymour Goodman, appeared by Abraham J. Seigel, Accountant.

FINDINGS OF FACT

1. Petitioner, Seymour Goodman, and his wife filed joint New York State income tax resident returns for the year 1960. He did not file any unincorporated business tax returns for the year 1960.

2. On April 13, 1964, the Income Tax Bureau issued a statement of audit changes, against petitioner, Seymour Goodman, imposing unincorporated business tax upon the income received by him from his activities as a salesman during the year 1960 upon the ground that his sales activities constituted the carrying on of an unincorporated business in accordance with the provisions of Article 23 of the Tax Law and accordingly issued a notice of deficiency therefor in the sum of \$1190.12.

3. Petitioner, Seymour Goodman, was a ladies shoe salesman. He sold ladies shoes for three affiliated firms. One of the firms maintained an office in New York for the salesmen to use. The firm paid for the telephone and clerical help. He had no employees of his own.

4. During the year 1960, the firms for whom petitioner, Seymour Goodman, sold merchandise did not withhold federal or New York State income taxes or social security taxes. On his federal and New York State income tax returns he deducted business expenses including expenses for trade shows and entertainment of clients. He was not reimbursed for these expenses. He worked on commission and did not have a written employment agreement. He conducted his sales activities under the name of "Sears Company" and in connection therewith filed a certificate of doing business with the county clerk of New York County. The name of his company appeared on the building directory and office door of the firm for whom he sold merchandise. In connection therewith he paid a commercial occupancy tax to the City of New York. He maintained a room in his home which he used for business purposes. There was a sales manager who supervised the activities of the salesmen including petitioner. Petitioner failed to submit any documentary or other sufficient evidence to show the sales managers degree of direction and control over him with respect to the time he spent or the manner and means of his effecting sales.

CONCLUSIONS OF LAW

A. That petitioner, Seymour Goodman's, representation of three affiliated firms in the sale of ladies shoes during the year 1960 did not in and of itself constitute the carrying on of an unincorporated business in accordance with the meaning and intent of Section 703 (f) of the Tax Law.

B. That the income received by petitioner, Seymour Goodman, from the firms that he represented during the year 1960 constituted receipts from his regular business of selling ladies shoes and not compensation as an employee exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of Section 703 (b) of the Tax Law.

C. That the aforesaid activities of petitioner, Seymour Goodman, during the year 1960 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to unincorporated business tax in accordance with the meaning and intent of Section 703 of the Tax Law.

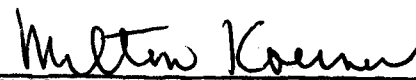
D. That the petition of Seymour Goodman is denied and the notice of deficiency issued April 13, 1964 against him is sustained.

DATED: December 23, 1960

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER