Silbert, M.
UBT

1970

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Michael and Rose Silbert

For a Redetermination of a Deficiency or a Refund of Unincorporated Business Taxes under Article(s) 16-A of the Tax Law for the (Year(s) 1955 & 1956

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

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 10th day of March, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Michael & Rose Silbert/Sidney Meyers (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Michael & Rose Silbert
c/o Sidney Meyers
51 Chambers Street
New York, New York 10007

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

10th day of March, 1970.

Marie Buckley

Janet Wright

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
MICHAEL AND ROSE SILBERT	:	DETERMINATION
For Revision or Refund of Unincorporated Business Taxes Under Article 16-A of the Tax Law for the Years 1955 and 1956	:	

The taxpayers having filed applications pursuant to Sections 386j and 374 of the Tax Law for revision or refund of unincorporated business tax under Article 16-A of the Tax Law for the year 1955, under a notice of assessments against Michael and Rose Silbert dated May 7, 1958 for the year 1955, and a further notice of assessment against Michael Silbert dated April 15, 1959 for the year 1956, and such applications having been denied and a hearing thereon having been demanded and duly scheduled for 1:30 p.m., July 28, 1969, at Room 781, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer, and an appearance thereat being made only by an attorney and not the taxpayer and the record having been duly examined and considered,

The State Tax Commission hereby

FINDS:

1. The notice of assessment dated May 7, 1958, is in the amount of $370.49 and asserts a tax against taxpayers reported business income on the grounds that it is income from an unincorporated business.

2. The notice of assessment dated April 15, 1959, is in the amount of $64.00 and increases the taxpayer's unincorporated business

income by reason of the disallowance by Federal authorities, as reported to the Commission by the taxpayer, of certain travel and entertainment expenses.

3. The applications for revision of each assessment asserted that the income in question was from an activity exempt from the unincorporated business tax. Such applications were denied.

4. The taxpayers did not appear at the hearing. A notice of hearing addressed to the address shown on the applications, 436 Beach 125 Street, Rockaway Park, New York, was returned by the postal authorities as undeliverable. A notice of hearing was sent to a subsequent address of taxpayer known to the Department (900 Bay Drive, Miami, Florida) but with no response.

5. The attorney who had prepared the applications appeared at the hearing. He stated, however, that he had lost contact with his clients who he believed to be in Florida and that he did not know to what extent he was any longer authorized to represent them. The attorney was told of the Miami address and was given time from the end of the hearing to locate his clients and his own files and to correspond with the hearing officer. That time has elapsed and no communication has been received.

6. Rose Silbert was not engaged in the business of her husband, Michael.

Upon the foregoing findings and all the evidence in the case, The State Tax Commission hereby

DETERMINES:

A. The taxpayer, Michael Silbert, by his failure to be present and testify has failed to carry the burden of proof that he was exempt from tax.

B. The assessment of May 7, 1958, is cancelled with respect to Rose Silbert.

C. The notices of assessment of May 7, 1958, and April 15, 1959, with respect to Michael Silbert, do not include taxes or other charges which could not have been lawfully demanded.

D. The assessments are affirmed with respect to Michael Silbert in the amounts stated in paragraphs one and two together with such interest and other charges, if any, as may be lawfully due pursuant to Sections 376 and 377 of the Tax Law.

Dated: Albany, New York
March 9, 1970

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER