

STATE OF NEW YORK
STATE TAX COMMISSION

Warshauer,
1970
URT

In the Matter of the Petition

of
Warshauer & Others
d/b/a The Haiblum-Warshauer Agency
For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article(s) 16A of the
Tax Law for the (Year(s) 1957, 1958 &
1959

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 30th day of November, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Warshauer & Others (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Warshauer & Others
d/b/a The Haiblum-Warshauer Agency
186 Joralemon Street
Brooklyn, 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 Newman

Janet Wright

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
Warshauer & Others :
d/b/a The Haiblum-Warshauer Agency :
For a Redetermination of a Deficiency or :
a Refund of Unincorporated Business :
Taxes under Article(s) 16A of the :
Tax Law for the (Year(s) 1957, 1958 & :
1959

**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 30th day of November , 1970 , she served the within Notice of Decision (or Determination) by (certified) mail upon Montague Casper, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Montague Casper, Esq.
250 W 57th Street
New York, New York 10019

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

Lawrence A Newman

James Wright

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
WARSHAUER & OTHERS	:	
d/b/a The Haiblum-Warshauer	:	DETERMINATION
Agency	:	
for Revision or Refund of Unincorporated	:	
Business Taxes under Article 16-A of the	:	
Tax Law for the Years 1957, 1958 & 1959	:	

Harry Haiblum and Maxwell J. Warshauer have made application for a revision or for refund of unincorporated business taxes under Article 16-A of the Tax Law for the years 1957, 1958 & 1959. A formal hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York, New York on October 8, 1969. The applicants appeared and were represented by Casper & Nehabas, Esq. (Montague Casper, Esq., of counsel).

FINDINGS OF FACTS

1. Harry Haiblum and Maxwell Warshauer, doing business as the Haiblum-Warshauer Agency, filed New York State unincorporated business tax partnership returns for the years 1957, 1958 & 1959.

2. On January 6, 1961, the Income Tax Bureau issued additional assessments for each of the years as follows: 1957 assessment # B828444 totaling \$178.28, 1958 assessment # B 828445 totaling \$189.26, and 1959 assessment # B 828446 totaling \$324.43. These amounts were based upon additional income for the partnership.

3. On January 24, 1961, applicants filed applications for revision or refund of unincorporated business taxes for the years 1957, 1958, and 1959.

4. The applications were denied by the Income Tax Bureau and a demand for hearing was timely filed.

5. Applicants are general agents for the Guardian Life Insurance Company. They entered into a partnership agreement in

1956 and under the terms of this agreement, each has a 50% interest in the Haiblum-Warshauer Agency.

6. The agency receives its profits in the form of override commissions on policies handles through its offices. This income was reported as partnership income for the years 1957, 1958, and 1959.

In addition, for these years each partner sold insurance policies which yielded renewal and first year commissions. However, the sale of these policies by the individual partners was inseparable from the conduct of the business activities of the Agency.


DETERMINATION

A. The renewal commissions and first year commissions arising from the sale of insurance policies by each partner is partnership income and subject to unincorporated business tax.

B. The application is denied and the assessments are sustained.

DATED: Albany, New York
November 27, 1970

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER