

STATE OF NEW YORK  
STATE TAX COMMISSION

HEARING UNIT - File Copy

TAX UBT

ART. 23 SECS. \_\_\_\_\_

KEY WORDS \_\_\_\_\_

CROSS REFERENCE DECISION

CASE LAW CITATIONS \_\_\_\_\_

REMARKS \_\_\_\_\_

\_\_\_\_\_  
In the Matter of the Petition  
of  
DANIEL BERMAN, and INGRID BERMAN,  
his wife  
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  
\_\_\_\_\_

Daniel Berman and Ingrid Berman, his wife, 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 Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission in the City of New York on October 30, 1969. The petitioners appeared through LeRoy A. Kramer CPA, and the Income Tax Bureau was represented by Edward H. Best Esq. (Albert J. Rossi Esq. of counsel).

FINDINGS OF FACT

1. On December 30, 1964, the petitioner filed claims for refund of unincorporated business taxes for the years 1961 and 1962.

2. The claims were disallowed by the Income Tax Bureau and a petition was timely filed.

3. The petitioner, Daniel Berman, is a sales representative for several firms in the automobile accessories field. The petitioner is paid commissions from each concern based upon the volume of sales. Mr. Berman is not an employee of any concern, nor do his principals have any control over his method of operation.

DECISION

The business activities of the petitioner, Daniel Berman, 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 the unincorporated business tax.

B. The claim for refund and the petition are denied.

DATED: Albany, New York  
June 3, 1970

STATE TAX COMMISSION

Norman Gallman  
COMMISSIONER

Abraham Kraslow  
COMMISSIONER

Milton Kravitz  
COMMISSIONER