

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE CLAIM

OF

JACK G. & BETTY S. YOUNG

FOR REFUND OF UNINCORPORATED BUSINESS
TAX UNDER ARTICLE 23 OF THE TAX LAW
FOR THE YEARS 1962 and 1963

HEARING UNIT - File Copy

TAX UBT

ART. 23 SECS. _____

KEY WORDS soloman -
no office maintained

GROSS ECTS. _____

CASE LAW CITATIONS _____

REMARKS _____

Jack G. Young and Betty S. Young having filed a claim for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1962 and 1963 which was denied by the State Tax Commission and a hearing having been held thereon at the office of the State Tax Commission in the State Office Building, Niagara Square, Buffalo, New York on the first day of August, 1966 before Vincent P. Molineaux, Hearing Officer of the Department of Taxation and Finance, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers filed New York State resident income tax and unincorporated business tax returns for the years 1962 and 1963 on which the amounts shown to be due were paid.

(2) That the taxpayers, on June 21, 1964, filed a claim for credit or refund of the unincorporated business tax for the years 1962 and 1963 in the respective amounts of \$605.40 and \$714.54 on the ground that the income was erroneously reported for unincorporated business tax as it was exempt from such tax pursuant to section 703(f) of the Tax Law.

(3) That all of the income is derived from insurance commissions earned by the taxpayer husband, who is and at all times under consideration, was associated with the insurance firm of Gurney, Becker and Bourne in Buffalo, New York; the firm provides him with private office space, a private telephone, a secretary and other

policy-writing, reviewing, filing and accounting services at no expense to himself.

(4) According to agreement all of taxpayer's business is placed with or offered to the firm and in practice 3% of the risks, consisting of business unacceptable to the firm, are placed elsewhere.

(5) The taxpayer does not maintain an office or employ any assistants or otherwise regularly carry on a business within the intent of section 307(f) of the Tax Law.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

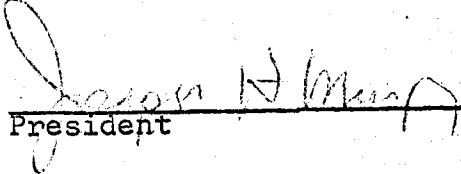
DETERMINES:

(A) That the income from insurance commissions reported for unincorporated business tax for the years 1962 and 1963 was incorrectly reported and was not subject to unincorporated business tax under Article 23 of the Tax Law.

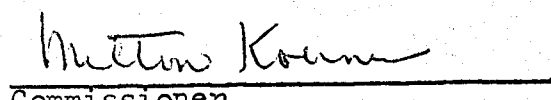
(B) That the refund claimed by the taxpayers for the years 1962 and 1963 is granted.

Dated: Albany, New York this 21st day of May, 1969.

STATE TAX COMMISSION


President


Commissioner


Commissioner