

STATE OF NEW YORK
STATE TAX COMMISSION

Glickman, Julius
U. B. I. Article 23
1971

In the Matter of the Petition

of

JULIUS GLICKMAN

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) 1962, 1963
and 1964.

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 1st day of March, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon JULIUS GLICKMAN

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Julius Glickman
18 Ganung Drive
Ossining, New York 10562

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

1st day of March, 1971.

Martha J. Jansen

Linda Wilson

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
JULIUS GLICKMAN	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the years 1962, 1963 and 1964.	:	

Petitioner, Julius Glickman, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1962, 1963 and 1964. (File # 26102210). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on January 18, 1971, at 1:30 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Edward H. Best, Esq. (Albert Rossi, Esq. of Counsel).

FINDINGS OF FACT

1. Petitioner, Julius Glickman, filed a New York State income tax resident return for the year 1962 and he and his wife filed similar returns for the years 1963 and 1964. He did not file New York State unincorporated business tax returns for said years.

2. On March 27, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Julius Glickman, imposing unincorporated business tax upon the income received by him from his activities as a home furnishings salesman during the years 1962, 1963 and 1964 upon the grounds that his activities constituted the carrying on of an unincorporated business in accordance with the provisions of Article 23 of the Tax Law. It also imposed penalties pursuant to section 685(a) of the Tax Law totaling \$186.95 for failure to file unincorporated business tax returns for said years. In

accordance with the aforesaid it issued a Notice of Deficiency in the sum of \$1,069.63.

3. During the years 1962, 1963 and 1964 petitioner, Julius Glickman, was a home furnishings salesman. He represented three to five unaffiliated firms in the sale of home furnishings. The items sold by him for each firm were non-competitive. He did not have an office or any employees.

4. During the years 1962, 1963 and 1964 the firms for whom petitioner, Julius Glickman, sold home furnishings did not withhold Federal or New York State income taxes or social security tax from the commissions paid to him. They did not cover him for workmen's compensation, health, or unemployment insurance. He was not a member of their pension plans. They did not reimburse him for any of his business expenses. He deducted these expenses on schedule "C" of his Federal income tax return. The firms for whom he sold merchandise did not exercise any control or supervision over his sales activities or techniques or to the time he devoted to sales, except to limit the territory in which he could sell.

5. Petitioner, Julius Glickman, was advised by his accountant that he was not required to report any unincorporated business tax due for the years 1962, 1963 and 1964.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Julius Glickman, from the firms he represented during the years 1962, 1963 and 1964 constituted income from his regular business of selling home furnishings 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.

B. That the aforesaid activities of petitioner, Julius Glickman, during the years 1962, 1963 and 1964 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.

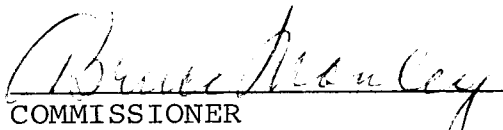
C. That petitioner, Julius Glickman, had reasonable cause for not reporting any unincorporated business tax due for the years 1962, 1963 and 1964 and, therefore, the penalty assessed pursuant to section 685(a) of the Tax Law is waived.

D. That the petition of Julius Glickman is granted to the extent of cancelling penalties imposed pursuant to Section 685(a) of the Tax Law for the years 1962, 1963 and 1964 in the total sum of \$186.95 and the Notice of Deficiency issued March 27, 1967 is reduced from \$1,069.63 to \$882.68 together with such interest as may be due from March 27, 1967, and, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
March 1, 1971

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER