

Mr. A. Rossi

Mr. Edward Rook  
Charlotte R. Herman

In accordance with our discussion, I am returning the above file for you to explore administrative disposal by the Income Tax Bureau.

In your presentation of the case, you properly submitted a previous determination against the taxpayer on the same set of facts together with a memorandum on the problem.

It appears that real estate salesmen are required to be "employed" by real estate brokers under Section 440 of the Real Property Law. However, the Court of Appeals has held that such salesmen are generally independent contractors for purposes of unemployment insurance. Also, the IRS generally exempts their compensation from withholding requirements (min 6566, 1951-1 CB 108). It was apparently on this basis, that the Tax Commission previously held the instant taxpayer subject to the unincorporated business tax.

I have, however, inquired into the practice of the Income Tax Bureau, and it appears that they have not previously regarded real estate salesmen as being subject to the tax. Further, it appears that they regarded the previous determination as being aberrant and have not followed it. The second assessment against this taxpayer was the automatic result of the previous determination rather than a reasoned intent to include real estate salesmen among those subject to the tax.

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In the first part of the report, the author discusses the general situation of the country and the results of the survey.

The second part of the report deals with the results of the survey and the author's conclusions. The author concludes that the country is in a state of economic crisis and that the government should take immediate action to restore the economy.

The author also discusses the social and political situation of the country. He concludes that the country is in a state of social and political crisis and that the government should take immediate action to restore the social and political order.

The author also discusses the results of the survey and the author's conclusions. The author concludes that the country is in a state of economic crisis and that the government should take immediate action to restore the economy.

Mr. A. Rossi

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August 25, 1971

Under the circumstances it would appear that the taxpayer is being discriminated against by a quirk of fate since her activities do not appear to be unusual for a real estate salesman. Because of this, I would prefer to regard the previous determination as having been issued in error. Would you check to see if the Income Tax Bureau is disposed to cancelling the notice of deficiency.

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Edward Rook  
Secretary to the  
State Tax Commission

August 25, 1971  
cc-Mr. Robert Leisner

