

STATE OF NEW YORK  
STATE TAX COMMISSION

*Lensen,*  
*O.B.T.*  
*Article 23*

In the Matter of the Petition

of

Alexander Lensen & Charlotte  
Lensen

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) 1960, 1961 :  
and 1962.

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

State of New York  
County of Albany

Claire A. Draves , 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 15th day of January , 1971, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Alexander Lensen  
and Charlotte Lensen (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Alexander & Charlotte Lensen  
2309 Amelia Circle  
Tallahassee, Florida 32304  
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

15th day of Januray , 1971.

*Joanella Ferraro*

*Claire A. Draves*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

Alexander & Charlotte Lensen :

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

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) 1960, 1961 :  
and 1962

State of New York  
County of Albany

Clairen A. Draves , 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 15th day of January , 1971, she served the within  
Notice of Decision (or Determination) by (certified) mail upon David S. Galton,  
Esq., (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: David S. Galton, Esq.  
c/o Benjamin, Galton, Robbins and Flato  
21 East 40th Street  
New York, New York 10016

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

15th day of January , 1971.

Martha Lensen

Claire A. Draves

## STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
ALEXANDER LENSEN AND CHARLOTTE :  
LENSSEN :  
for Redetermination of Deficiency or :  
for Refund of Unincorporated Business :  
Tax under Article 23 of the Tax Law :  
for the years 1960, 1961 and 1962 :

## FINDINGS OF FACT

2. On May 10, 1965, the Income Tax Bureau issued a statement of audit changes against petitioners, Alexander Lensen and Charlotte Lensen, imposing unincorporated business tax upon the income received by petitioner, Alexander Lensen, from his activities as a foreign sales consultant during the years 1960, 1961 and 1962

upon the ground that these activities constituted the carrying on of an unincorporated business in accordance with Article 23 of the Tax Law and accordingly issued a notice of deficiency therefor in the sum of \$3,833.14.

3. Prior to November 30, 1959, petitioner, Alexander Lensen, was the sole stockholder of Concor International Corporation which carried on the business of export representative. On or about November 30, 1959, he entered into an agreement for the sale of said stock to MB Electronics, a Division of Textron Electronics, Inc. for the sum of \$150,000.00. The agreement contained a restrictive covenant that he would not engage in the business of export representative. Simultaneously, he entered into a service agreement with MB Electronics wherein he was retained as an independent contractor to render services related to international sales, financing and operations for a period of three years. He received fees of \$50,000.00 per annum. The agreement specifically provided that he was an independent contractor. He was not reimbursed for his expenses, except for two European trips per annum. There were no deductions made from his fees for Federal or State Income Taxes or Social Security Taxes. On his Federal and State Tax Returns for the years 1960, 1961 and 1962 he listed his occupation as "Foreign Sales Consultant" and on Schedule "C" of his Federal Income Tax Return he deducted expenses in connection with his consulting activities.

#### CONCLUSIONS OF LAW

A. That the income received by petitioner, Alexander Lensen, from MB Electronics during the years 1960, 1961 and 1962 constituted receipts from his regular business of foreign sales consultant 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, Alexander Lensen, during the years 1960, 1961 and 1962 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 the petition of Alexander Lensen and Charlotte Lensen is denied and the notice of deficiency dated May 10, 1965 is sustained.

DATED: Albany, New York

*January 12, 1971.*

STATE TAX COMMISSION

*Norman Skellern*

COMMISSIONER

*Bruce Hardy*

COMMISSIONER

*Milton Koerner*

COMMISSIONER