

STATE OF NEW YORK
STATE TAX COMMISSION

Saul H. Pearl
V.B. art. 23
YEARS 1964-65

In the Matter of the Petition

of

SAUL H. PEARL

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,
1964 and 1965.

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

State of New York
County of Albany

Rae Zimmerman, 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 9th day of July, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon Saul H. Pearl

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Saul H. Pearl
17 Cooper Road
Scarsdale, New York

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

9th day of July, 1971.

Frank J. Luzzo

Rae Zimmerman

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
SAUL H. PEARL	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the years 1962, 1963, 1964 and 1965.	:	

The taxpayer petitioned for a redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1962, 1963, 1964 and 1965. 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 September 24, 1970. The taxpayer appeared pro se and the Income Tax Bureau appeared through Edward H. Best, Esq., (Solomon Sies, Esq., of Counsel).

FINDINGS OF FACT

1. The issue in this proceeding is whether income received by the taxpayer in his capacity as a sales representative is subject to unincorporated business tax.
2. The petitioner, during the years in question, was a New York sales representative of the Gravely Furniture Company, a corporation whose principal office was located in Ridgeway, Virginia. In addition, the petitioner received commissions from several other firms, not affiliated with Gravely Furniture Company.
3. Petitioner worked entirely on a commission basis. Social security was not withheld from the commissions received, and the

petitioner paid self-employment tax. Petitioner's expenses were not reimbursed.

4. Petitioner employed two additional salesmen, over whom he had complete supervisory control, and paid these individuals on a commission basis.

5. Petitioner maintained an office at his home for which he deducted various expenses from his income tax returns.

6. On April 10, 1968, a Notice of Deficiency #14714707 was issued against the petitioner in the amount of \$2,947.56 plus penalty and interest. This deficiency was based upon an audit which determined that the activities of the petitioner were such as to subject the income earned in his capacity as sales representative to unincorporated business tax.

DECISION

A. The activities of the petitioner in his capacity as a sales representative amount to the operation of an unincorporated business, the income from which is subject to unincorporated business tax.

B. The petition is, therefore, denied and the Notice of Deficiency is sustained, together with such penalty and interest as may be lawfully due.

DATED: Albany, New York

July 9, 1971

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Abner Manley
COMMISSIONER

Milton Korman
COMMISSIONER