

STATE OF NEW YORK
STATE TAX COMMISSION

Unincorporated
ART. 23 Business

YEAR(s) 1960 - 1962

In the Matter of the Petition

of

LEONARD & GLORIA SKLAR

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

Mr. & Mrs. Leonard Sklar
AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 7th day of July , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Leonard &
Gloria Sklar (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Leonard & Gloria Sklar
55-07 260th Street
Little Neck, L.I., 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

7th day of July , 1971.

Rae Zimmerman

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEONARD & GLORIA SKLAR

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 & 1962

State of New York
County of Albany

Martha Funaro , 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 7th day of July , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Jacob

Perelson, C.P.A. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Jacob Perelson, C.P.A.
66 Court Street
Brooklyn, 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

7th day of July , 1971

Rae Zimmerman

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
LEONARD AND GLORIA SKLAR : DECISION
for a Redetermination of a Deficiency :
or for Refund of Unincorporated Business :
Taxes under Article 23 of the Tax Law :
for the Years 1960, 1961 and 1962. :

Leonard and Gloria Sklar have petitioned for a redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1960, 1961 and 1962. 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 October 2, 1969, and concluded on February 26, 1970. Mr. Sklar appeared, and the petitioners were represented by Jacob Perelson, C.P.A. and Stephen Perelson, Esq. The Income Tax Bureau was represented by Edward H. Best, Esq., (Albert J. Rossi, Esq., and Solomon Sies, Esq., of Counsel).

ISSUE

Whether the income derived from Mr. Leonard Sklar's activities, as a commission salesman, was subject to the unincorporated business tax.

FINDINGS OF FACT

1. The petitioners filed New York State income tax resident returns for the years 1960, 1961 and 1962, but did not file unincorporated business tax returns.
2. On January 18, 1965, the Income Tax Bureau issued a Notice of Deficiency under file numbered 2-3414954 for the years 1960, 1961 and 1962, in the amount of \$885.09 plus statutory interest.

3. A petition for redetermination was timely filed.

4. Mr. Leonard Sklar is a commission salesman, handling advertising novelties, promotional appliances, and general merchandise. Mr. Sklar was compensated strictly on a commission basis without a written contract. He was not allowed a drawing account and was not reimbursed for any expenses. No deductions for income or social security taxes were made.

5. The majority of the commissions received were from International Marketing Company, including its affiliated corporations having a common ownership and address. Mr. Sklar also sold merchandise on behalf of M. Z. Berger, Inc., Simon and Goldsmith, and Westerman Manufacturing Co. These latter companies dealt in non-competing products.

6. Mr. Sklar does not maintain an office, nor does he employ assistants. All sales are subject to the approval of the companies for whom he sells. Petitioner did not use his own stationery or business letterhead and did no billing of his principal's customers.

7. The petitioner, Mr. Sklar, has failed to prove that the nature of his association with any of his principals included the usual characteristics of an employer-employee relationship.

8. The petitioner is not an employee of any of his principals.

DECISION

A. The activities of the petitioner, Leonard Sklar, as a commission salesman, constituted the carrying on of an unincorporated business, and the resulting income therefrom was subject to the unincorporated business tax.

B. The deficiency is sustained, and the petition is denied.

DATED: Albany, New York

July 7, 1971

STATE TAX COMMISSION

Norman Galtman
COMMISSIONER

Bruce Newley
COMMISSIONER

Milton Krenn
COMMISSIONER

JACOB PERELSON
Certified Public Accountant

66 COURT STREET ULSTER 2-4300 BROOKLYN, NEW YORK 11201

MEMBER AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS • NEW YORK STATE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

December 20, 1971

State of New York
Department of Taxation & Finance
Building 9, Room 214 A
State Campus
Albany, N. Y. 12226

Gentlemen:

There is herewith enclosed a check in the amount of \$1200.00 to be applied against the account of Leonard Sklar, Social Security number 101-20-4246, File 2-3414954 for the years 1960, 1961, 1962 unincorporated business tax.

The tax liability of this deficiency was \$885.09 plus statutory interest was based on a decision of the State Tax Commission in the matter of Leonard and Gloria Sklar vs. the New York State Department of Taxation.

To expedite matters and to give our client the opportunity of stopping the running of interest in this matter and in view of the fact that the State of New York has not formerly rebilled our client for this deficiency, a copy of the decision is herewith enclosed.

Very truly yours,

Jacob Perelson
JACOB PERELSON, C. P. A.

JP/ch
Encs.

12/23/71
*Check letter
forwarded to
Law Bureau*
W. A. Brown

LEONARD SKLAR ENTERPRISES, INC.

55-07 260TH STREET
LITTLE NECK, N. Y. 11362

717

12-17 19-71 $\frac{1-148}{210}$

Pay TO THE ORDER OF *N. Y. State Income Tax Bureau*

\$200^{xx}

Twelve Hundred ^{xx}

DOLLARS



FRANKLIN NATIONAL BANK
249-46 HORACE HARDING BLVD.
LITTLE NECK, N. Y.

Leonard Sklar

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