

STATE OF NEW YORK
STATE TAX COMMISSION

*Haiblum Warshauer
Agency
U.B.T. [unclear]*

In the Matter of the Petition

of
Warshauer & Others d/b/a
The Haiblum-Warshauer Agency

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) 16-A of the
Tax Law for the (Year(s) 1957, 1958 & 1959

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 30th day of April , 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon Harry Haiblum & Maxwell J. Warshauer (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Harry Haiblum & Maxwell J. Warshauer
c/o Haiblum-Warshauer Agency
186 Joralemon 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

30th day of April , 1971

James S. Van Petten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
Warshauer & Others, d/b/a
The Haiblum-Warshauer Agency

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For a Redetermination of a Deficiency or
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Tax Law for the (Year(s) 1957, 1958 & 1959

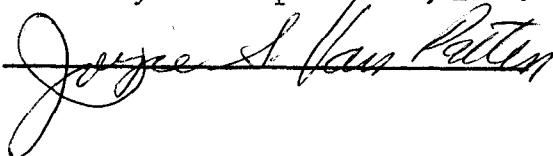
State of New York
County of Albany

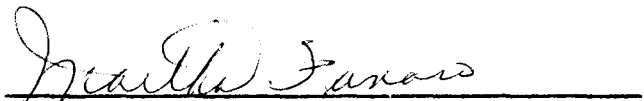
Martha Funaro , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 30th day of April , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Montague
Casper, Esq. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Montague Casper, Esq.
c/o Casper & Nehrbas, Esqs.
250 W. 57th Street
New York, New York 10019
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

30th day of April , 1971.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
of
WARSHAUER & OTHERS, d/b/a :
The Haiblum-Warshauer Agency : DETERMINATION
for a Redetermination of a Deficiency or
for Refund of Unincorporated Business :
Taxes under Article 16-A of the Tax Law :
for the Years 1957, 1958, and 1959. :

Harry Haiblum and Maxwell J. Warshauer have made application for revision or for refund of unincorporated business taxes under Article 16-A of the Tax Law for the years 1957, 1958 and 1959. A formal hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on October 8, 1969. The applicants appeared and were represented by Casper & Nehabas, Esqs. (Montague Casper, Esq., of Counsel). The Income Tax Bureau was represented by Edward H. Best, Esq. (Albert J. Rossi, Esq., of Counsel).

FINDINGS OF FACT

1. Harry Haiblum and Maxwell J. Warshauer, doing business as the Haiblum-Warshauer Agency, filed New York State unincorporated business tax partnership returns for the years 1957, 1958 and 1959.
2. On January 6, 1961, the Income Tax Bureau issued additional assessments for each of the years as follows: 1957, assessment No. B82844 totalling \$178.28; 1958, assessment No. B828445 totalling \$189.26; and 1959, assessment No. B828446 totalling \$324.43. These amounts were based upon additional income for the partnership.
4. On January 24, 1961, applicants filed applications for revision or refund of unincorporated business taxes for the years 1957, 1958 and 1959. The applications were denied by the Income Tax Bureau and a demand for hearing was timely filed.

5. Applicants are general agents for the Guardian Life Insurance Company. They entered into a partnership agreement on February 3, 1956, and under the terms of this agreement, each has a 50% interest in the Haiblum-Warshauer Agency.

6. The Agency receives its profits in the form of override commissions on policies handled through its offices. This income was reported as partnership income for the years 1957, 1958 and 1959.

In addition, for these years each partner sold insurance policies which yielded renewal and first year commissions. However, the sale of these policies by the individual partners was inseparable from the conduct of the business activities of the Agency.

7. Subsequent to the formal hearing held on October 8, 1969, taxpayers, through their attorneys, submitted a breakdown of income earned by the partners prior to the formation of the partnership and income earned by the partnership subsequent to the formation of the partnership.

Assessment No. B82844 for the year 1957, included income in the form of renewal commissions totalling \$1,626.61 on policies sold by the partners individually prior to the formation of the partnership.

DETERMINATION

A. The renewal commissions and first year commissions arising from the sale of insurance policies by each partner subsequent to the formation of the partnership are partnership income and subject to unincorporated business tax.

B. The assessments for the years 1958 and 1959, are sustained and the applications with respect to those years are denied.


C. The renewal commissions arising from the sale of insurance policies by each partner prior to the formation of the partnership is not partnership income and is not subject to unincorporated business tax. Accordingly, assessment No. B82844


for the year 1957, is reduced and the application is granted
in part as follows:

Additional income of partners per assessment	\$5,571.16
Less renewal commissions on policies sold prior to the formation of partnership	<u>1,626.61</u>
Additional income of partners (corrected)	\$3,944.55
Less salary credit	<u>788.91</u>
Balance subject to unincorporated business tax	\$3,155.64
Additional unincorporated business tax due at 4%, (corrected) \$126.22	

DATED: Albany, New York
April 30, 1971

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application

of

WARSHAUER & OTHERS

d/b/a The Haiblum-Warshauer
Agency

DETERMINATION

for Revision or Refund of Unincorporated
Business Taxes under Article 16-A of the
Tax Law for the Years 1957, 1958 & 1959

Harry Haiblum and Maxwell J. Warshauer have made application for a revision or for refund of unincorporated business taxes under Article 16-A of the Tax Law for the years 1957, 1958 & 1959. A formal hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York, New York on October 8, 1969. The applicants appeared and were represented by Casper & Nehabas, Esq. (Montague Casper, Esq., of counsel).

FINDINGS OF FACTS

1. Harry Haiblum and Maxwell Warshauer, doing business as the Haiblum-Warshauer Agency, filed New York State unincorporated business tax partnership returns for the years 1957, 1958 & 1959.
2. On January 6, 1961, the Income Tax Bureau issued additional assessments for each of the years as follows: 1957 assessment # B828444 totaling \$178.28, 1958 assessment # B 828445 totaling \$189.26, and 1959 assessment # B 828446 totaling \$324.43. These amounts were based upon additional income for the partnership.
3. On January 24, 1961, applicants filed applications for revision or refund of unincorporated business taxes for the years 1957, 1958, and 1959.
4. The applications were denied by the Income Tax Bureau and a demand for hearing was timely filed.
5. Applicants are general agents for the Guardian Life Insurance Company. They entered into a partnership agreement in

1956 and under the terms of this agreement, each has a 50% interest in the Haiblum-Warshauer Agency.

6. The agency receives its profits in the form of override commissions on policies handles through its offices. This income was reported as partnership income for the years 1957, 1958, and 1959.

In addition, for these years each partner sold insurance policies which yielded renewal and first year commissions. However, the sale of these policies by the individual partners was inseparable from the conduct of the business activities of the Agency.

DETERMINATION

A. The renewal commissions and first year commissions arising from the sale of insurance policies by each partner is partnership income and subject to unincorporated business tax.

B. The application is denied and the assessments are sustained.

DATED: Albany, New York

November 27, 1970

STATE TAX COMMISSION

Norman Gallivan

COMMISSIONER

Bruce Manley

COMMISSIONER

Milton Koerner

COMMISSIONER

1939 and under the terms of this agreement, each has a 50% interest in the British-Waterbury Agency.

6. The agency receives its profits in the form of override commissions on policies handled through its offices. This income was reported as partnership income for the years 1937, 1938, and 1939.

In addition, for these years each partner sold insurance policies which yielded renewal and third year commissions. However, the sale of these policies by the individual partners was inseparable from the conduct of the business activities of the Agency.

DETERMINATION

1. The renewal commissions and third year commissions arising from the sale of insurance policies by each partner is partnership income and subject to undistributed business tax.
2. The application is denied and the assessments are sustained.

DATED: Albany, New York

STATE TAX COMMISSION

COMMISSIONER

COMMISSIONER

COMMISSIONER

State Tax Commission

April 14, 1971


Edward Rook

Matter of Application of Warshauer and Others,
d/b/a The Haiblum-Warshauer Agency

On November 27, 1970, the State Tax Commission issued a Determination in the Matter of the Application of Warshauer and Others, d/b/a The Haiblum-Warshauer Agency. A copy of this Determination is attached hereto.

Subsequent to this action taken by the State Tax Commission, the taxpayers forwarded a check paying the assessment in full. Accompanying the payment was a letter from taxpayer Warshauer, calling to our attention the fact that the attorney representing the Income Tax Bureau had conceded, at the formal hearing, the fact that income from the sales of insurance policies sold prior to the formation of the partnership by the individual partners was not subject to unincorporated business tax. Taxpayer requested that the total amount of the assessments for the years in question be reduced to reflect the exclusion of income conceded not to have been subject to unincorporated business taxes and that an appropriate refund be made accordingly. The November 27, 1970, Determination taxes that income at unincorporated business tax rates.

Upon examination of figures supplied by the taxpayer subsequent to the formal hearing, it is recommended that the assessment for the year 1957 be reduced as set out in the proposed determination, that a refund be made accordingly, and that the assessments for the years 1958 and 1959 be sustained.


Edward Rook
Secretary to the
State Tax Commission

ER/lw
Enc.