

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JAMES V. EICHORN

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) 1965, 1966
and 1967

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

State of New York
County of Albany

Lynn Wilson, 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 22nd day of November, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon JAMES V.

EICHORN (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. James V. Eichorn
768 Stony Brook Road
Elmira, New York 14905

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

22nd day of November, 1972.

Madha Furus

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

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age, and that on the 22nd day of November , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon GERALD E.

DeFILIPPO, ESQ. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Gerald E. DeFilippo, Esq.
408 E. Church Street
Elmira, New York 14901

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.

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known address of the (representative of the) petitioner.

Sworn to before me this

22nd day of November , 1972.

Jantha Dunais

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
November 22, 1972

Mr. James V. Eichorn
768 Stony Brook Road
Elmira, New York 14905

Dear Mr. Eichorn:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 722** of
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leisner
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
JAMES V. EICHORN	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1965, 1966 and 1967.	:	

James V. Eichorn petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the years 1965, 1966 and 1967.

A formal hearing was held at the offices of the State Tax Commission, Binghamton, New York on September 13, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Gerald E. DiFillipo and the Income Tax Bureau was represented by Edward H. Best, Esq. (Alexander Weiss, Esq., of Counsel).

ISSUE

Were the activities of James V. Eichorn in 1965, 1966 and 1967, as a manufacturer's representative subject to unincorporated business tax under section 703 of the Tax Law?

FINDINGS OF FACT

1. Petitioner, James V. Eichorn, timely filed New York State income tax returns for the years 1965, 1966 and 1967.
2. A Notice of Determination of deficiencies in unincorporated business taxes for the years 1965, 1966 and 1967 was issued on November 24, 1969, against the taxpayer under File No. 78756482.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. The taxpayer was a sales representative for Homer D. Bronson Co. and CE-JA Springs Inc. manufacturers of hinges and springs respectively. He was paid by commission only on actual sales in his territory. He did little actual selling but acquainted the manufacturers with his companies' products and left bid sheets with them to write his principals for quotes. He also acted as a service representative to keep the goodwill of the customers and keep contact with them.

5. The taxpayer maintained no office, had no employees, and had no letterhead.

6. The taxpayer was not reimbursed for his expenses, and he filed a Schedule "C" with modest expenses.

7. The taxpayer had no arrangement between his principals as to the division of his time and effort. He was free to work for or represent others.

8. The principals exercised no supervision and control over the taxpayer's activities.

CONCLUSIONS OF LAW

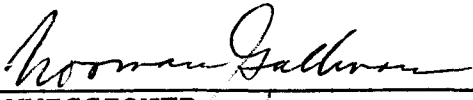
A. James V. Eichorn was an independent sales agent and subject to unincorporated business tax during the years 1965, 1966 and 1967.

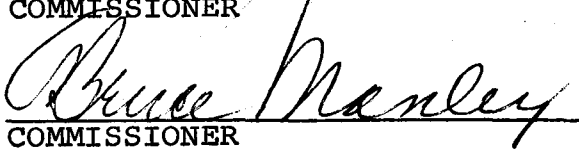
B. The determination of the deficiencies is sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
November 22, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER