

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
HENRY FEUCHTWANGER

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)) 1965, 1966 and 1967.

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 5th day of April, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon

Henry Feuchtwanger (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Henry Feuchtwanger
Ascodomus-Centro, Block 2
6612 Ascona,
Switzerland

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

5th day of April, 1972.

Martha Munaro

Rae Zimmerman



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
April 5, 1972

Henry Feuchtwanger
Ascodomus-Centro, Block 2
6612 Ascona,
Switzerland

Dear Mr. Feuchtwanger:

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

Please take further notice that pursuant to section(s)
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 relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Paul B. Coburn

Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HENRY FEUCHTWANGER	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law for	:	
the Years 1965, 1966 and 1967.	:	

Petitioner, Henry Feuchtwanger, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1965, 1966 and 1967. (File No. 74681588). On June 29, 1971, petitioner advised the State Tax Commission in writing that he desired to waive a formal hearing and to submit the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

I. Did the selling activities of petitioner, Henry Feuchtwanger, during the years 1965, 1966 and 1967 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, Henry Feuchtwanger, and his wife filed New York State income tax resident returns for the years 1965, 1966 and 1967. He did not file New York State unincorporated business tax returns for said years.

2. On February 22, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Henry Feuchtwanger, imposing unincorporated business tax upon the income received by him from his activities as a salesman during the years 1965, 1966 and 1967. It also imposed a penalty of \$187.53 for failure to file New York State unincorporated business tax returns for said years. In accordance

with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,092.30.

3. Petitioner, Henry Feuchtwanger, was a handbag salesman during the years 1965, 1966 and 1967. He represented two affiliated firms in the sale of handbags. The products sold by him for each firm were noncompetitive. He generally sold their products to the same customers. He did not have any employees. He maintained an office in his home solely for the maintenance and storage of records and samples.

4. During the years 1965, 1966 and 1967 the firms for whom petitioner, Henry Feuchtwanger, sold handbags did not withhold Federal and New York State income taxes and social security tax from the commissions paid to him. He was not reimbursed for any of his business expenses. He deducted these business expenses on Schedule "C" of his federal income tax returns. He was free to work for other principals. He did not have any written employment contracts. The firms for whom he sold merchandise did not exercise any substantial supervision or control over his sales activities or techniques or over the time he devoted to sales except to limit the territory in which he could sell.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Henry Feuchtwanger, from the firms that he represented during the years 1965, 1966 and 1967 constituted income from his regular business of selling handbags and not compensation as an employee exempt from the imposition of the 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, Henry Feuchtwanger, during the years 1965, 1966 and 1967 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of Henry Feuchtwanger is denied and the Notice of Deficiency issued February 22, 1971, is sustained.

DATED: Albany, New York

April 5, 1972

STATE TAX COMMISSION

Lawrence Galbraith

COMMISSIONER

Bruce Mauley

COMMISSIONER

Milton Koenig

COMMISSIONER