

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ISIDOR KAPLAN

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) 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 May, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon

Isidor Kaplan (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Isidor Kaplan
Essex House Hotel
New York, 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 May, 1972

Marta Funnell

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

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a Refund of Unincorporated Business:
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Tax Law for the (Year(s)) 1963, 1964 and
1965

AFFIDAVIT OF MAILING
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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 May, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon

Bertram J. Berger, (representative of) the petitioner in the within
C.P.A. proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Bertram J. Berger, C.P.A.
276 Fifth Avenue
New York, New York 10001

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 May, 1972

Jantha Turner

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
May 9, 1972

Isidor Kaplan
Essex House Hotel
New York, New York

Dear Mr. Kaplan:

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	:	
ISIDOR KAPLAN	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law for	:	
the Years 1963, 1964 and 1965.	:	

Petitioner, Isidor Kaplan, 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 1963, 1964 and 1965. (File No. 32277523). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on February 23, 1971, at 9:15 A.M. Petitioner appeared by Bertram J. Berger, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq. (Albert Rossi, Esq., of Counsel).

ISSUE

I. Were the services rendered by petitioner, Isidor Kaplan, during the years 1963, 1964 and 1965, as an officer of Feature Fabrics, Inc. and Donny Brook Fabrics, Ltd. so integrated and interrelated with his activities in connection with his unincorporated business as to constitute part of a business regularly carried on by him?

FINDINGS OF FACT

1. Petitioner, Isidor Kaplan, filed unincorporated business tax returns for the years 1963, 1964 and 1965. He reported as taxable income on these returns the net income from his piece goods jobbing business, but omitted from taxable income the salaries paid to him by Donny Brook Fabrics, Ltd. and Feature Fabrics, Inc. The salaries

received totalled \$57,619.12 in 1963, \$55,485.57 in 1964, and \$60,296.31 in 1965.

2. On September 25, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Isidor Kaplan, imposing unincorporated business tax upon the salary income received by him during the years 1963, 1964 and 1965, from Donny Brook Fabrics, Ltd. and Feature Fabrics, Inc., and accordingly issued a Notice of Deficiency in the sum of \$7,329.15.

3. During the years 1963, 1964 and 1965, petitioner, Isidor Kaplan, was the sole proprietor of a piece goods business. He purchased piece goods from mills in sixty to eighty yard lengths. He then sold the cut pieces to department stores and specialty shops for sale to women for home sewing.

4. Feature Fabrics, Inc. was incorporated in 1948. Petitioner, Isidor Kaplan, was president and a director of the corporation during the years 1963, 1964 and 1965. He owned two thirds of its stock. Ben Levine was also an officer and director of the corporation. He owned one third of its stock. Petitioner was in charge of the buying of piece goods and the administration of the corporate business. Mr. Levine was in charge of the selling activities of the corporation. The corporation was engaged in the business of selling piece goods in bulk to manufacturers of women's dresses. Federal and New York State income taxes and social security tax were withheld by the corporation from petitioner's salary.

5. Donny Brook Fabrics, Ltd. was incorporated in 1945. Petitioner, Isidor Kaplan, was president and director of the corporation during the years 1963, 1964 and 1965. He owned one half of its stock. His daughter, Norma Friedman, was also an officer and director of the corporation. She owned the remaining one half of its stock.

Petitioner was in charge of the buying of piece goods and the administration of the corporate business. Norma Friedman was in charge of the selling activities of the corporation. The corporation was engaged in the business of importing novelty fabrics and selling them to manufacturers of women's dresses. Federal and New York State income taxes and social security tax were withheld by the corporation from petitioner's salary.

6. The two corporations were located in the same building as petitioner, Isidor Kaplan. They reimbursed the sole proprietorship for their proportionate share of their overhead and other expenses incurred. They each kept separate books and records. They employed their own salesman. They billed their own accounts. Feature Fabrics, Inc. and the sole proprietorship did not sell to the same accounts. Donny Brook Fabrics, Ltd. and the sole proprietorship sold to very few of the same accounts. On occasion piece goods were purchased by the sole proprietorship for Feature Fabrics, Inc. Feature Fabrics, Inc. reimbursed the sole proprietorship for such purchases.

CONCLUSIONS OF LAW

A. That the services rendered by petitioner, Isidor Kaplan, during the years 1963, 1964 and 1965 as an officer of Feature Fabrics, Inc. and Donny Brook Fabrics, Inc. were not so integrated and inter-related with his activities in connection with his unincorporated business as to constitute part of a business regularly carried on by him and therefore the salaries received by him as an officer of said corporations were exempt from the imposition of 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, Isidor Kaplan, during the years 1963, 1964 and 1965 did not constitute the carrying

on of an unincorporated business and his income derived therefrom was not subject to unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of Isidor Kaplan is granted to the extent of reducing unincorporated business tax due for the year 1963 from \$2,128.48 to 0, for the year 1964 from \$2,056.12 to \$42.12, and for the year 1965 from \$2,211.60 to 0, and the Notice of Deficiency issued September 25, 1967, is reduced from \$7,329.15 to \$48.29, together with such interest as may be due from September 25, 1967, and, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

STATE TAX COMMISSION

May 9, 1972

COMMISSIONER

Bruce Hanley

COMMISSIONER

Matthew Korman

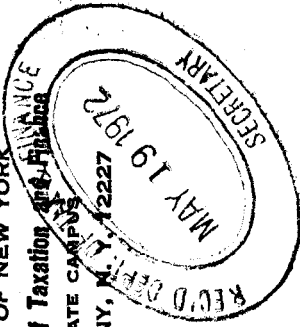
COMMISSIONER

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N.Y. 12227



DO NOT WRITE

RETURN TO ORIGINAL ADDRESS
FOR BETTER DIRECTIONS

Isidor Kaplan
Essex House Hotel
New York, New York

~~Isidor Kaplan
Essex House Hotel
New York, New York~~

- ☐ Moved, Left no address
- ☐ No such number
- ☐ Moved, not forwardable
- ☒ Addressee unknown

NEW YORK, N.Y. 10021

CERTIFIED

No. 592987

MAIL

Isidor Kaplan
Essex House Hotel
New York, New York

RADIO CITY

KNICKERBOCKER STATION





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

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STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York
May 9, 1972

Isidor Kaplan
Essex House Hotel
New York, New York

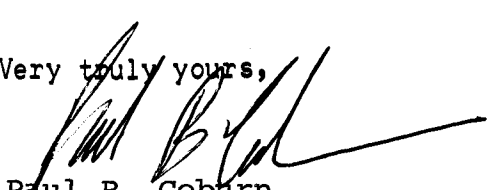
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addressed to the undersigned. These will be referred
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Very truly yours,


Paul B. Coburn
Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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ISIDOR KAPLAN	:	DECISION
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THEY WERE TO BE

neither all to total sale nor

NAME: _____

PAID 12500

[illegible]

Article 28 of the Tax Law for the years 1961, 1962 and 1963. While
No. 3277522). A formal meeting was held before Paul E. Roberts,

appeared by Edward J. Neale, Esq. (Alfred Neale, Esq., of Counsel).

90327

constitute part of a business venture, according to my informant.

~~CONFIDENTIAL~~

[illegible]

received totalled \$57,619.12 in 1963, \$55,485.57 in 1964, and \$60,296.31 in 1965.

2. On September 25, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Isidor Kaplan, imposing unincorporated business tax upon the salary income received by him during the years 1963, 1964 and 1965, from Donny Brook Fabrics, Ltd. and Feature Fabrics, Inc., and accordingly issued a Notice of Deficiency in the sum of \$7,329.15.

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received interest \$27,000.00 in 1953, \$25,000.00 in 1954, and

\$20,000.00 in 1955.

3. On September 17, 1955, the income tax return issued a

statement of assets and liabilities, showing that the

income tax return for the year 1955, from 1955

to 1955, was \$25,000.00, 1955 and 1955, from 1955

to 1955, was \$25,000.00, and accordingly

received a notice of deficiency in the sum of \$1,000.00.

4. During the years 1953, 1954 and 1955, the

taxpayer was in a position of a sole proprietor

in the business of a sole proprietor in the state of

the state of the state of the state and accordingly

for each of the years 1953, 1954 and 1955.

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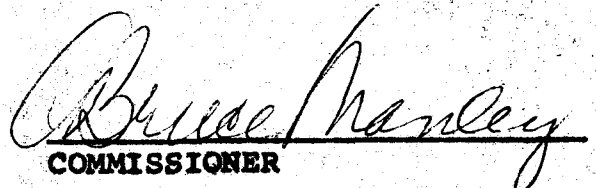
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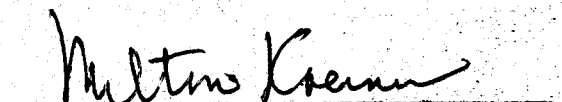
DATED: Albany, New York

May 9, 1972

STATE TAX COMMISSION

COMMISSIONER


COMMISSIONER


COMMISSIONER

of an individual, and the individual is not a member of the

and is not subject to any other law, and is not a member of the

the meeting and is not a member of the

3. That the action of the Board of Directors is hereby

of the Board of Directors is hereby

and the Board of Directors is hereby

for the year 1971 from 12/31/70 to 12/31/71 and the Board of Directors

issued September 22, 1971, is hereby

together with any other action of the Board of Directors

and, except as hereinafter provided, the action of the Board of Directors

done.

WITNESSED my hand and the seal of the Corporation this 22nd day of September, 1971.

Secretary

ATTEST:

NOTARY PUBLIC

NOTARY PUBLIC