

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
RALPH E. LOEWENBERG

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 and 1961:

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

Ralph E. Loewenberg (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Ralph E. Loewenberg
630 Third Avenue
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

Lynn Wilson

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
RALPH E. LOEWENBERG

AFFIDAVIT OF MAILING
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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 and 1961:

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
Joel I. Friedman, Esq. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Joel I. Friedman, Esq.
Nathan, Mannheimer, Asche, Winer & Friedman
295 Madison Avenue
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

Lynn Wilson

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

Ralph E. Loewenberg
630 Third Avenue
New York, New York

Dear Mr. Loewenberg:

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,

Lawrence A. Newman

Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE TAX COMMISSION

Taxpayer filed a petition for a redetermination of a deficiency or for a refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1960 and 1961. A formal hearing was held before Vincent P. Molineaux, Hearing Officer, at the offices of the State Tax Commission in the City of New York on September 30, 1964. Taxpayer appeared in person and was represented by Nathan, Mannheimer, Asche, Winer and Friedman, (Joel I. Friedman, Esq., of counsel).

1. Taxpayer and his wife filed joint New York State income tax returns for the years 1960 and 1961.

The deficiency was based on a finding by the Bureau that \$2,079.65 was due as additional unincorporated business tax for the year 1960 from activities as an independent contractor. The remainder of the assessment is not in issue for the years 1960 or 1961.

3. Taxpayer is an insurance agent soliciting business of Massachusetts Life Insurance Company. His place of business is with E. Lloyd Mallon, general agent for the company. Taxpayer pays no rent. He uses the services of a secretary and clerical employees. Taxpayer pays their salaries but was reimbursed by the company. The employees are carried on the company payroll. Social Security taxes are withheld by the insurance company. As an agent for the

insurance company taxpayer participates in Group Life Insurance, hospital and medical and contributory retirement plans. Taxpayer is bonded by the company and in addition is required to attend periodic conferences with the general agent.

All of the taxpayer's sales of life insurance are required to be first submitted to Massachusetts Life Insurance Company. Any surplus is placed with other companies under the direction of the general agent.

4. Mr. Loewenberg's sources of income for the year in question are as follow:

	<u>Mass Life Insurance Co.</u>	<u>Other</u>
1960	\$130,181.01	\$4,703.11

DECISION

A. Taxpayer is an employee of Massachusetts Life Insurance Company within the meaning of the Tax Law in respect to his commissions from that company.

B. Taxpayer is an independent contractor with respect to commissions received from other companies.

C. The commissions received from other companies after expenses for the year 1960 are not of sufficient amount to be taxable.

D. The imposition of the unincorporated business tax for the year 1960 is incorrect, and that portion of the assessment should be cancelled and the assessment reduced accordingly.

DATED: Albany, New York

STATE TAX COMMISSION

May 9, 1972

COMMISSIONER

Bruce Manley

COMMISSIONER

Milton Koenn

COMMISSIONER