

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR LURIA & GLADYS LURIA

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) 1961, 1962 & 1963

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

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 2nd day of March , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon Arthur Luria &
Gladys Luria (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Arthur & Gladys Luria
683 Richmond Road
East Meadow, L.I., 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

2nd day of March , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ARTHUR LURIA & GLADYS LURIA :

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) 1961, 1962 & 1963

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 2nd day of March, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Julius A. Baylis, C.P.A. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Julius A. Baylis, C.P.A.
1457 Broadway
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

2nd day of March, 1972.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

March 2, 1972

Arthur & Gladys Luria
683 Richmond Road
East Meadow, L.I., New York

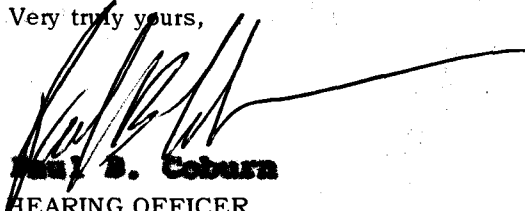
Dear Sir & Madam:

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

Please take further notice that pursuant to **section 722**
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,


Paul S. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ARTHUR LURIA AND GLADYS LURIA	:	
for Redetermination of Deficiency or	:	DECISION
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for Years 1961, 1962 and 1963.	:	

Petitioners, Arthur Luria and Gladys Luria, have filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1961, 1962 and 1963 (File #3-3430877). 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 January 19, 1971, at 1:30 P.M. Petitioner appeared by Julius A. Baylis, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq. (Albert Rossi, Esq. of Counsel).

FINDINGS OF FACT

1. Petitioners, Arthur Luria and Gladys Luria, filed New York State income tax resident returns for the years 1961, 1962 and 1963. They did not file New York State unincorporated business tax returns for said years.

2. On August 9, 1965, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Arthur Luria and Gladys Luria, imposing unincorporated business tax upon the income received by petitioner, Arthur Luria, from his activities as a giftware and notions salesman during the years 1961, 1962 and 1963 upon the grounds that his activities constituted the carrying on of an unincorporated business in accordance with the provisions of Article 23 of the Tax Law. It also assessed additional personal income tax for the year

1962, which amount is not being contested by them. In accordance with said Statement of Audit Changes it issued a Notice of Deficiency in the sum of \$1,090.91.

3. Petitioners, Arthur Luria and Gladys Luria's, representative stipulated at the formal hearing that if the petitioners were held by the State Tax Commission to be subject to unincorporated business tax then the business income reported for the year 1963 would be adjusted from \$14,804.81 to \$18,143.03 to reflect additional income as a result of Federal audit changes, which changes are not being contested by them.

4. Petitioner, Arthur Luria, was a giftware and notions salesman during the years 1961, 1962 and 1963. He represented three to five unaffiliated firms in the sale of giftware and notions. The items sold by him for each firm were non-competitive. He did not have an office or any employees.

5. During the years 1961, 1962 and 1963, the firms for whom petitioner, Arthur Luria, sold merchandise did not withhold Federal or New York State income taxes or social security tax from the commissions paid to him. They did not cover him for unemployment insurance. One of the firms did cover him for workmen's compensation, automobile liability and hospitalization insurance. On Schedule "C" of his Federal income tax returns, he deducted expenses incurred in connection with his sales activities. He was not reimbursed for any of his expenses by any of the firms. He did not have any written employment contracts. The firms for whom he sold merchandise did not exercise any control or supervision over his sales activities or techniques or to the time devoted to sales, except to limit the territory in which he could sell.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Arthur Luria, from

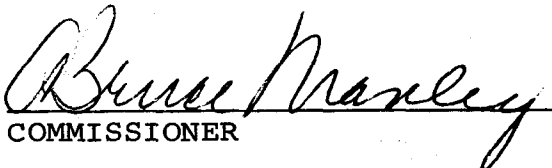
the firms he represented during the years 1961, 1962 and 1963 constituted income from his regular business of selling giftware and notions and not compensation as an employee exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That the aforesaid activities of petitioner, Arthur Luria, during the years 1961, 1962 and 1963 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of Arthur Luria and Gladys Luria is denied and the Notice of Deficiency issued August 9, 1965 is increased from \$1,090.91 to \$1,205.19 together with such additional interest as may be lawfully due from August 9, 1965.

DATED: Albany, New York
March 2, 1972


COMMISSIONER


COMMISSIONER


COMMISSIONER