

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR D. MAGER

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, 1961
and 1962

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 4th day of December , 1972, she served the within

Notice of Decision (or Determination) by (certified) mail upon ARTHUR D.

MAGER

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Mr. Arthur D. Mager

Lawn Lane R.F.D.

Oyster Bay, 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

4th day of December , 1972.

Martha J. Juras

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

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ARTHUR D. MAGER

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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 4th day of December , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon DANIEL J.
HELLER, ESQ. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Daniel J. Heller, Esq.
60 East 42nd Street
New York, N. Y. 10017

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

4th day of December , 1972

Martha Dunne

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
December 4, 1972

Mr. Arthur D. Mager
Lawn Lane R.F.D.
Oyster Bay, New York

Dear Mr. Mager:

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 TAX COMMISSION

3. The taxpayer petitioned for redetermination of the deficiencies.

4. Petitioner represented several companies. He was paid solely by commissions. He earned the following commissions during the years in issue, Burris Manufacturing Company, 1960, \$8,394.77; 1961, \$15,964.36; 1962, \$27,309.23; Sandhill Furniture Corp., 1960, \$14,914.61; 1961, \$18,078.28; 1962, \$17,763.96; Starlight Products Corp., 1960, \$4,900.00; 1961, \$2,900.00; 1962, \$7,246.28.

5. Petitioner worked out of his house selling furniture to retail and department stores in the Metropolitan New York and Northern New Jersey area.

6. Petitioner was subject to strict sales quotas by Burris Manufacturing Company and had to secure permission to take a day off. He was required to attend the furniture markets each year in Chicago and in the South and to make certain calls specified by his principals. He had no inventory and had no authority over pricing or credit.

7. Petitioner had to take care of complaints or iron out difficulties for his principals.

8. Petitioner was not reimbursed for his expenses by his principals.

9. There was no arrangement as to division of time by his principals.

10. For the most part, the supervision exercise consisted of sales quotas, and the territory to be covered.

11. None of the companies withheld income taxes or social security taxes.

12. None of the companies gave petitioner a paid vacation.

13. Petitioner filed a Schedule "C" with his federal return with business income and expenses.

CONCLUSIONS OF LAW

A. Petitioner, Arthur D. Mager, was an independent sales agent and subject to the unincorporated business tax imposed by the Tax Law.


B. The deficiencies are sustained.


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

DATED: Albany, New York
December 4, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER