

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LOUIS MARYANOV

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

:
:
:
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 16th day of March, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon LOUIS MARYANOV

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Louis Maryanov
333 East 30th Street
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

16th day of March, 1972.

Martha Funnaro

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LOUIS MARYANOV

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 :

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 16th day of March , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon PHILIP KRANZBAUM
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Philip Kranzbaum
545 Fifth 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

16th day of March , 1972.

Martha Jones

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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
March 16, 1972

Louis Maryanov
333 East 30th Street
New York, New York

Dear Mr. Maryanov:

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,

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 :
LOUIS MARYANOV : DECISION
for Redetermination of Deficiency or :
for Refund of Unincorporated Business :
Tax under Article 23 of the Tax Law :
for the Year 1963. :

Petitioner, Louis Maryanov, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1963. (File No. 3-7590588). 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 March 23, 1971, at 1:15 P.M. Petitioner appeared by Philip Kranzbaum, Esq. The Income Tax Bureau appeared by Edward H. Best, Esq. (Albert Rossi, Esq. of Counsel).

ISSUE

I. Did petitioner, Louis Maryanov's, activities on behalf of Joseph Kurzon, Inc. and Murray Electric Service Co., Inc. constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, Louis Maryanov, and his wife filed a New York State combined income tax return for the year 1963. He did not file a New York State unincorporated business tax return for said year.

2. On November 14, 1966, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Louis Maryanov, imposing unincorporated business tax upon the income received by him from Joseph Kurzon, Inc. and Murray Electric Service Co., Inc. during the year 1963, and accordingly issued a Notice of Deficiency in the sum of \$760.91.

3. Joseph Kurzon, Inc. was a wholesale distributor of electrical supplies and appliances. Petitioner, Louis Maryanov, was the store manager of its store, located at 112 West 31st Street, New York, New York, during the year 1963. He received a fixed annual salary of \$11,960.00. He did not receive any bonuses or commissions. He was a member of its pension plan. New York State and Federal income taxes and social security tax was withheld from his salary. He was generally required to work from 8:00 A.M. to 5:30 P.M. during the week. He was subject to the orders of Joseph Kurzon, the owner of the corporation.

4. Murray Electric Service Co., Inc. was engaged in the business of selling and repairing electrical equipment. During the year 1963, petitioner, Louis Maryanov's, selling activities on behalf of said corporation consisted of selling electrical equipment repair services, primarily to the Pennsylvania Railroad. During said year, he received \$12,434.77 in commissions. The corporation did not withhold New York State and Federal income taxes and social security tax from the commissions paid to him. His selling activities were generally conducted after 5:30 P.M. or on weekends. The corporation did not exercise any supervision or control over his sales activities or to the time he devoted to sales.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Louis Maryanov, during the year 1963, from Joseph Kurzon, Inc. constituted 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 income received by petitioner, Louis Maryanov, during the year 1963 from Murray Electric Service Co., Inc. constituted income from his regular business of selling electrical equipment repair services and not compensation as an employee exempt from imposition of unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

C. That the aforesaid activities of petitioner, Louis Maryanov, during the year 1963, on behalf of Murray Electric Service Co., Inc. 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.

D. That the petition of Louis Maryanov is granted to the extent of reducing unincorporated business taxable income for the year 1963, from \$13,540.02 to \$4,450.42, and of reducing unincorporated business tax due from \$541.60 to \$178.02 and of reducing the penalty for failure to file an unincorporated business tax return from \$135.40 to \$44.51 and the Notice of Deficiency issued November 14, 1966, is reduced from \$760.91 to \$250.11 together with such interest as may be due from November 14, 1966, and except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
March 16, 1972.

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER