

March 7, 1972

S.E. Katchen and Company
380 North Broadway
Jericho, L.I., New York 11753

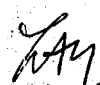
Re: Mortimer B. Pearl
Decision dated: February 23, 1972
Article 23 Year: 1962

Gentlemen:

This acknowledges your letter regarding the recent decision of the State Tax Commission.

Your letter has been referred to the Litigation Unit of our Bureau of Law for their attention and response to your inquiry.

Very truly yours,


Lawrence A. Newman
Hearing Officer

cc: Law Bureau

Page 1 of 1

1. The first part of the document
is a list of the names of the
persons who were present at the
meeting.

2. The second part of the document
is a list of the names of the
persons who were present at the
meeting.

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is a list of the names of the
persons who were present at the
meeting.

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persons who were present at the
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is a list of the names of the
persons who were present at the
meeting.

7. The seventh part of the document
is a list of the names of the
persons who were present at the
meeting.

S. Z. KATCHEN AND COMPANY

380 NORTH BROADWAY
JERICO, L.I., N.Y. 11753

(516) 433-6216

VBST
BWC-TA

March 2, 1972.

Mr. Lawrence A. Newman,
Hearing Officer,
State of New York Department of Taxation and Finance,
State Tax Commission, Hearing Unit,
Building 3, Room 214A,
State Campus,
Albany, New York, 12226.

Dear Mr. Newman:

Re: Petition on Mortimer B. Pearl

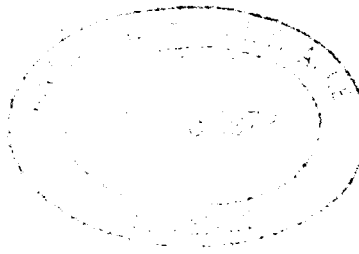
I have just received your decision on the above client and am surprised that the case is still pending after all these years.

It seems to me the Statute of Limitations must have run out on this matter as I do not recall my client signing a new waiver. I would appreciate your checking to see if the Statute of Limitations has expired or if it is still running.

Very truly yours,

S. Z. Katchen
S. Z. KATCHEN AND COMPANY.

cc: Mortimer B. Pearl.



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MORTIMER B. PEARL

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) 1962

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 25th day of February , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon Mortimer B. Pearl

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mortimer B. Pearl
51 Milburn Street
Rockville Centre, 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

25th day of February , 1972.

Martha Furano

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MORTIMER B. PEARL

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) 1962

:
:
:
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 25th day of February, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Seymour Katchen, 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: Seymour Katchen, C.P.A.
30 Cornell Drive
Plainview, New York 11803
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

25th day of February, 1972.

Martha F. Marx

Rae Zimmerman



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

Albany, New York

February 25, 1972

Mortimer B. Pearl
51 Milburn Street
Rockville Centre, New York

Dear Mr. Pearl:

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 **four 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,

Lawrence A. Hansen

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
MORTIMER B. PEARL	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Year 1962.	:	

Taxpayer petitioned for a redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the year 1962. A formal hearing was held in the office of the State Tax Commission in the City of New York on June 13, 1966. The taxpayer was represented by Seymour Katchen, C.P.A.

FINDINGS OF FACT

1. The issue in the case is whether income reported by the taxpayer as salary constitutes additional business income subject to unincorporated business tax.

2. Taxpayer was a proprietor of a general insurance agency. He was also an officer and fifty percent shareholder in two corporations, Five Star Agency, Inc. and Tri-County Agency, Inc., each of which was engaged as general insurance brokers, and each of which was located on the same office floor as the office of the taxpayer. These corporations deducted and paid social security taxes on behalf of the taxpayer.

3. The taxpayer owned the office furniture and equipment of his office and those of the two corporations, took depreciation on this furniture and equipment and paid the telephone bills for all three offices. Additionally, employees of the taxpayer also

performed services for the two corporations.

4. Taxpayer was also performing under a contract with State Mutual Life Insurance Company of America. Under this contract the taxpayer was appointed as an agent of the company for the purpose of soliciting applications for life insurance, annuity contracts and health and accident and hospital insurance. Taxpayer was paid on a commission basis and was provided an office in the offices of State Mutual. He was not reimbursed for expenses by State Mutual. This company deducted and paid social security taxes on behalf of the taxpayer.

DECISION

A. The activities as officer and shareholder of Five Star Agency and Tri-County Agency constitute part of the business regularly carried on by the taxpayer. Income from these activities is therefore subject to unincorporated business tax.

B. The activities of the taxpayer as a life insurance agent on behalf of State Mutual Life Insurance Company of America constituted that of an employer-employee relationship. Income from this activity is therefore not subject to unincorporated business tax.

C. The Statement of Audit Changes dated February 8, 1965, that resulted in a Notice of Deficiency in the amount of \$370.84 plus interest is therefore recomputed below to eliminate income in the amount of \$1,484.00 received from State Mutual Life Insurance Company of America:

Additional business income (original audit)		\$8,521.34
less income from State Mutual		<u>1,484.00</u>
		\$7,037.34
less additional salary credit		<u>1,407.47</u>
net additional income subject to tax		\$5,629.87
taxable income previously stated		<u>2,545.73</u>
		\$8,175.60
corrected tax due at 4%	\$327.02	
tax previously stated	<u>3.66</u>	
Additional unincorporated business tax due		\$ 323.36

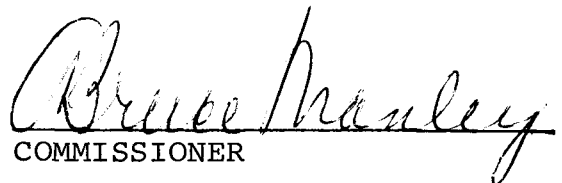
D. The Notice of Deficiency is therefore adjusted so that the taxpayer is liable for a deficiency in the amount of \$323.36 plus such interest as may be lawfully imposed by statute.

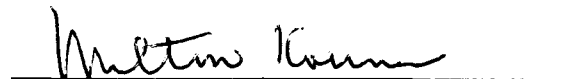
DATED: Albany, New York

February 25, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER