

MEMORANDUM

TO : STATE TAX COMMISSION
FROM : MR. ROOK
SUBJECT: Arthur and Betty Halpern
Article 16-A
1956 and 1957

Commissioner Procaccino has requested the opinion
of Mr. Heckelman and he feels that the interest
should be waived.

Please re-review the attached.



EDWARD ROOK
SECRETARY TO THE
STATE TAX COMMISSION

December 27, 1973
Attachment - File

Waive interest
Milton Green 1/7/74
APPROVED
C. J. Kelly 1/8/74

Mr. Heckelman
Maurice Procaccino
1-8-74

STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12226

REASON CHECKED

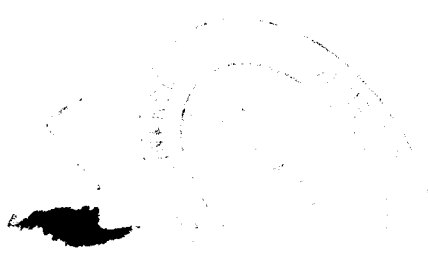
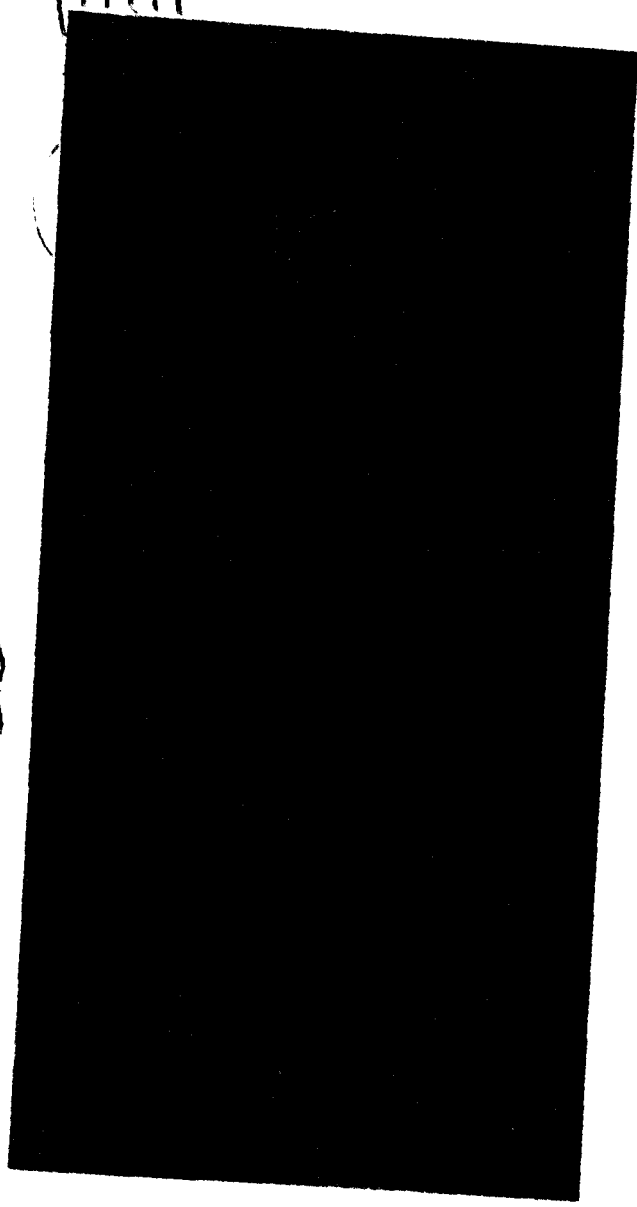
Unclaimed _____ Refused _____
Addressee unknown _____
Insufficient Address _____
No such street _____ number _____
No such office in state _____
Do not remail in this envelope _____

☒ Moved, left no address
☐ No such number
☐ Moved, not forwardable
☒ Addressee unknown

Mr. & Mrs. Arthur Halpern
Baluvelt Road
Monsey, New York

att.
Fried G. Whipple
Bldg #9

pd 15



MEMORANDUM

TO: Mr. Gabriel DiCerbo, Chief
Review Unit
Income Tax Bureau
Room 104, Building #8


DATE: August 30, 1973

SOCIAL SECURITY NO.

FROM: Nigel G. Wright
Hearing Unit
Room 214A, Building #9

RE: Mr. and Mrs. Arthur Halpern
Blauvelt Road
Monsey, New York

Please advise as to the last known address for the above named taxpayer.



HEARING OFFICER

Taxpayer's last known address is:

40 EAST 9TH STREET
NEW YORK, NEW YORK

RECEIVED
NEW YORK STATE
INCOME TAX BUREAU
AUG 30 1973
REVIEW UNIT
ALBANY OFFICE

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR HALPERN & BETTY HALPERN

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business:
Taxes under Article(s) 16-A of the
Tax Law for the (Year(s) 1956 & 1957 :

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 11th day of September, 19 73, she served the within
Notice of Decision (or Determination) by (certified) mail upon Arthur & Betty
Halpern (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. & Mrs. Arthur Halpern
40 East 9th 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

11th day of September , 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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of

ARTHUR HALPERN & BETTY HALPERN

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Tax Law for the (Year(s) 1956 & 1957 :

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 24th day of August , 19 73, she served the within
Notice of Decision (or Determination) by (certified) mail upon Arthur & Betty
Halpern (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. & Mrs. Arthur Halpern
Blauvelt Road
Monsey, 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

24th day of August , 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR HALPERN & BETTY HALPERN

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OF NOTICE OF DECISION
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Taxes under Article(s) 16-A of the
Tax Law for the (Year(s) 1956 & 1957 :

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 24th day of August , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Seymour Greenbaum, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Seymour Greenbaum, Esq.
141 Broadway
New York, New York

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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

Mario A. Procaccino,

~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

August 24, 1973

**Mr. & Mrs. Arthur Halpern
Blauvelt Road
Monsey, New York**

Dear Mr. & Mrs. Halpern:

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

Please take further notice that pursuant to
Section(s) **386j** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **90 Days**
from 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 relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Nigel G. Wright

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
ARTHUR HALPERN and BETTY HALPERN	:	DETERMINATION
for Revision or Refund of Unincorporated	:	
Business Tax under Article 16-A of the	:	
Tax Law for the Years 1956 and 1957.	:	

Arthur Halpern and Betty Halpern filed an application pursuant to Tax Law section 374 and 386-j for revision of an additional assessment of unincorporated business tax due under Article 16-A of the Tax Law for the years 1956 and 1957. Such application had been denied and a hearing was demanded and duly held on July 2, 1965, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Vincent P. Molineux, Hearing Officer. The applicants were represented by Seymour Greenbaum, Esq.

The record of said hearing has been duly examined and considered.

ISSUE

The issue is whether the applicant, Arthur Halpern, was exempt from unincorporated business tax for the years 1956 and 1957 by reason of being an employee.

FINDINGS OF FACT

1. The amounts of the assessments in issue are: 1956, \$496.74 (#B524851, \$519.42 less \$22.38 cancelled); 1957, \$102.00 (#BTF169056); and \$647.97 (#B803388).

2. Applicant, Arthur Halpern, was engaged exclusively by Auburn Rubber Co., Deming, New Mexico, for the years 1956 and 1957 as a sales representative. A letter from Auburn Rubber Co., dated April 10, 1961, was submitted which states that Arthur Halpern has been a manufacturer's representative for Auburn Rubber Co., since

1953 and has sold their line of toys exclusively. No evidence of the actual written agreement between Auburn Rubber Co. and Arthur Halpern has been submitted.

3. No withholding tax or social security was paid by Auburn Rubber Co. in behalf of Arthur Halpern.

4. In 1958, Auburn Rubber Co. leased and paid rent for a premise at 200 Fifth Avenue beginning in October 1957, which was designated as an office and showroom from which Arthur Halpern performed services for said company. For the years 1956 and 1957, applicant, Arthur Halpern, claims he performed the same services from a different office in the same building. This office was leased by Glenn E. Yoguelet, who was claimed to be president of Auburn Rubber Co. The applicant received no reimbursements for business expenses claimed in 1956 and 1957.

5. There is no evidence to indicate that Auburn Rubber Co. exercised any supervision or control over Arthur Halpern's sales activities except to limit him to a territory in which to operate.

CONCLUSIONS OF LAW

A. The income received by applicant, Arthur Halpern, from Auburn Rubber Co. during the years 1956 and 1957, constituted income from his business as a sales representative and not compensation as an employee exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of section 386-a of the Tax Law.


B. The aforementioned activities of applicant, Arthur Halpern, during the years 1956 and 1957, constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax within the meaning and intent of section 386-a of the Tax Law.

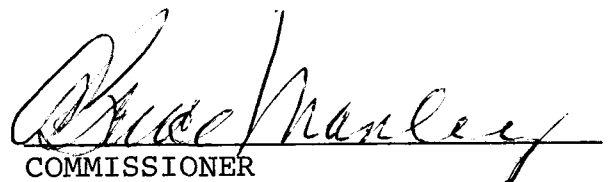
DECISION


The application of Arthur Halpern and Betty Halpern is denied and the assessments for 1956 (#B524851) and 1957 (#BTF169056 and #B803388) are affirmed together with such interest and additional charges, if any, as may be due pursuant to sections 376 and 377 of the Tax Law.

DATED: Albany, New York
August 24, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER



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

Mario A. Procaccino,
~~FOR THE COMMISSIONER~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

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Very truly yours,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: *Petitioner's Representative
Law Bureau

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12226

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Seymour Greenbaum, Esq.

141 Broadway

New York, New York

*Att.
Aug 15 1964
Bldg #9*

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STATE OF NEW YORK
STATE TAX COMMISSION

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STATE TAX COMMISSION

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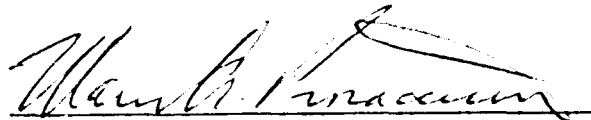
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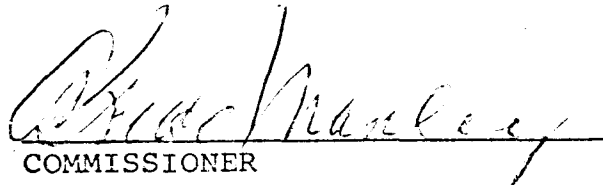
DECISION

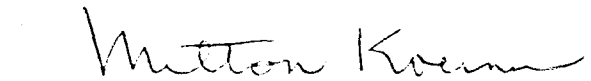
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DATED: Albany, New York
August 24, 1973

STATE TAX COMMISSION


COMMISSIONER


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