

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MELVIN LIPMAN

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) 1965, 1966 :  
and 1967.

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 28th day of August, 1973, she served the within  
Notice of Decision (or Determination) by (certified) mail upon MELVIN LIPMAN

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

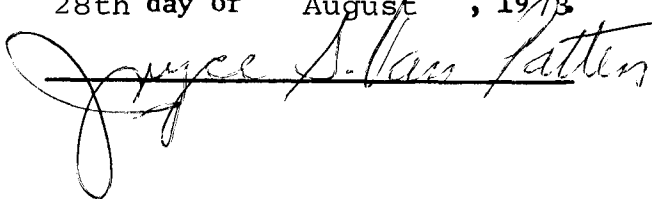

wrapper addressed as follows: Melvin Lipman  
200 Central Park South  
New York, N. Y. 10019

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

28th day of August, 1973



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

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 28, 1973

Melvin Lipman  
200 Central Park South  
New York, N. Y. 10019

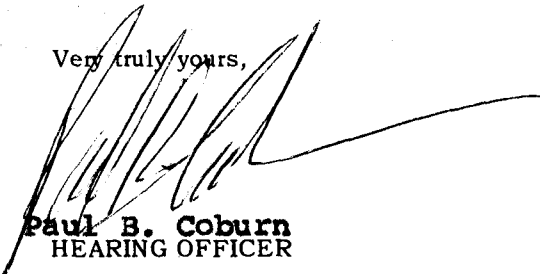
Dear Mr. Lipman:

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	:	
MELVIN LIPMAN	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Unincorporated Business Tax	:	
under Article 23 of the Tax Law for the	:	
Years 1965, 1966 and 1967.	:	

---

Petitioner, Melvin Lipman, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1965, 1966 and 1967. (File No. 78490092). A formal hearing was held before Lawrence A. Newman, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on October 19, 1971, at 9:15 A.M. Irving R. Baumwald, Esq., appeared for petitioner. Edward H. Best, Esq., (Solomon Sies, Esq., of Counsel) appeared for the Income Tax Bureau.

ISSUE

Did the salary and fees received by petitioner, Melvin Lipman, from various real estate corporations during the years 1965, 1966 and 1967, constitute compensation from a regular business as a real estate manager or did they constitute compensation as an employee or fiduciary?

FINDINGS OF FACT

1. Petitioner, Melvin Lipman, and his wife filed New York State income tax resident returns for the years 1965, 1966 and 1967. Petitioner also filed New York State unincorporated business

tax returns, for the years 1965 and 1966, reporting as taxable income the net income received by him from his unincorporated real estate management business, but omitted from taxable income, the salaries and fees paid to him by certain corporations.

2. On March 31, 1969, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Melvin Lipman, increasing his personal income for the year 1966 by \$457.06 and imposing unincorporated business tax upon the salaries and fees received by him from certain corporations during the years 1965, 1966 and 1967, and accordingly issued a Notice of Deficiency in the sum of \$1,565.20.

3. Petitioner, Melvin Lipman, agrees with the increase of \$457.06 for personal income for the year 1966.

4. Petitioner, Melvin Lipman, conducted an unincorporated business as a real estate manager during the years 1965, 1966 and 1967. Managing commissions and fees were paid to him for which an unincorporated business tax was paid.

5. Petitioner, Melvin Lipman, received salaries, management commissions and fees from 1965 through 1967 from the following real estate corporations:

<u>1965 Corporation</u>	<u>Salary</u>	<u>% Family Ownership</u>	<u>Management Commission</u>	<u>Fees</u>
1020 Park Ave. Inc.	--	-0-	--	--
Astor Concourse Inc.	\$3,000.00	50% owned by parents	\$3,373.03	--
Certified Mngt. Corp.	3,800.00	-0-	--	--
Stefra Corp.	--	16% owned by petitioner - 25% owned by petitioner	2,715.30	--
Jackmax Holding Corp.	5,000.00	25% owned by brother 50% owned by cousin	--	\$12,500.00

<u>1966</u>	<u>Salary</u>	<u>% Family Ownership</u>	<u>Management Commission</u>	<u>Fees</u>
Astor Concourse Inc.	\$6,000.00	50% owned by parents	\$3,424.89	--
Stefra Corp.	5,000.00	16% owned by petitioner	2,706.33	--
142 Realty Corp.	2,000.00	33% owned by parents	--	--
Geande Estates Inc.	--	-0-	--	\$2,250.00
Rosalind Equities Inc.	--	-0-	--	1,250.00
Harris Boskeys Sons Inc.	--	-0-	--	811.51
Jayart Holding Corp.	5,000.00	100% owned by parents	--	--
<u>1967</u>				
142 Realty Corp.	\$2,500.00	33% owned by parents	--	--
Jayart Holding Corp.	4,000.00	100% owned by parents	--	--
Astor Concourse Inc.	3,000.00	50% owned by parents	--	--
Jackmax Holding Corp.	6,000.00	25% owned by petitioner 25% owned by brother 50% owned by cousin	--	--
Harris Boskeys Inc.	--	-0-	--	- 149.81
An accounting firm	--	-0-	--	2,000.00

6. These corporations were located at the same address as petitioner, Melvin Lipman's individual real estate business and he determines the time that he devotes to each corporation as he sees fit.

7. Petitioner, Melvin Lipman's services to the corporations included supervision bookkeeping services, supervisions, and accounts and policy making of the operations and management of the corporations.

#### CONCLUSIONS OF LAW

A. That the income received by petitioner, Melvin Lipman, from certain real estate corporations constituted receipts from his regular business as a real estate manager and not compensation as an employee or fiduciary 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, Melvin Lipman, during the years 1965, 1966 and 1967, 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.

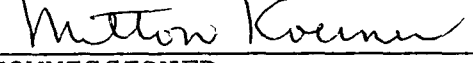
C. That the petition of Melvin Lipman is denied and the Notice of Deficiency issued March 31, 1969, is sustained.

DATED: Albany, New York  
August 28, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER