

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALBERT SINGER

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) 1964, 1965 & :
1966

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 23rd day of February , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Albert Singer

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

wrapper addressed as follows: Albert Singer
74 Audubon Avenue
Binghamton, New York 13903

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

23rd day of February , 1973

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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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 23rd day of February , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Abraham L.
Piaker, 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: Abraham L. Piaker, C.P.A.
40 Front Street
Binghamton, New York 13905

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

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Lynn Wilson

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STATE TAX COMMISSION

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For a Redetermination of a Deficiency or
a Refund of Unincorporated Business:
Taxes under Article(s) 23 of the
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OF NOTICE OF DECISION
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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 23rd day of February , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Harry Bangilsdorf,
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: Harry Bangilsdorf, C.P.A.
40 Front Street
Binghamton, New York 13905

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

23rd day of February , 1973.

[Signature]

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

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

February 23, 1973

Albert Singer
74 Audubon Avenue
Binghamton, New York 13903

Dear Mr. Singer:

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 OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ALBERT SINGER	:	DECISION
for a Redetermination of Deficiencies	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1964, 1965 and 1966.	:	

Albert Singer petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the years 1964, 1965 and 1966.

A formal hearing was held at the offices of the State Tax Commission, Binghamton, New York, on September 17, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Harry Bangilisdorf, Esq., and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

Were the activities of Albert Singer as a salesman during the years in issue subject to unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Albert Singer, timely filed New York State income tax returns for the years 1964, 1965 and 1966. He also filed an unincorporated business tax return for the year 1964, but not for 1965 and 1966.

2. A Notice of Determination of deficiencies in unincorporated business tax for the years 1964 and 1965 was issued on November 25, 1968 under File No. 48045227, and on October 28, 1968 against Albert Singer under File No. 68059985 for the year 1966.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. The petition for redetermination of the deficiencies was timely filed.

5. The petitioner, Albert Singer, represented Lewittes Furniture Enterprises, Carver Chair Company, Brooks Furniture Company and Lawrin Lamp Company during the years in question. These lines were noncompeting.

6. Petitioner was required to travel constantly and sold in New York State, eastern Canada, Puerto Rico and the islands of the West Indies.

7. Petitioner was paid by commissions. He did not stock merchandise, extend credit or set prices.

8. Petitioner was required to attend furniture markets, two one-week markets in Chicago, two one-week markets in New York and twice a year for two-week periods in the South for markets and factory meetings.

9. Petitioner was directed to make many of his calls, had to make regular reports, and had to get advance approval for his vacations.

10. The petitioner had no withholding or income taxes, or social security taxes. He had no health insurance and no paid vacation. No office was furnished to the petitioner by any of the concerns.

11. During one of the years, for example, petitioner reported gross receipts of \$33,520.24 and listed itemized business deductions of \$19,957.52.

12. Petitioner filed Schedule "C" returns each year for his business expenses.

13. There was no arrangement between the principals as to supervision of time.

CONCLUSIONS OF LAW

A. Petitioner, Albert Singer, was an independent sales agent and subject to the unincorporated business tax under section 703 of the Tax Law.


B. The Notice of Determination of deficiency in unincorporated business tax is sustained in all respects.

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

DATED: Albany, New York
February 23, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER