

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM J. BUCK and

MARGARET A. BUCK

For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business  
Taxes under Article(x) 23 of the  
Tax Law for the (Year(s) 1965 and 1967

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 25th day of June, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon William J. Buck and Margaret A. Buck (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. William J. Buck  
11 Marwood Place  
Stony Brook, New York 11790  
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 June, 1974.

*[Signature]*

*[Signature: Martha Funaro]*



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

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

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

DATED: Albany, New York  
June 25, 1974

Mr. & Mrs. William J. Buck  
11 Marwood Place  
Stony Brook, New York 11790

Dear Mr. & Mrs. Buck:

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

Please take further notice that pursuant to  
Section ~~(s)~~ 722 of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
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,

  
**Paul B. Coburn**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

AD-1.12 (8/73)

## STATE TAX COMMISSION

In the Matter of the Petition :  
:  
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:  
WILLIAM J. BUCK and : DECISION  
MARGARET A. BUCK :  
:  
for Redetermination of Deficiency or  
for Refund of Unincorporated Business :  
Tax under Article 23 of the Tax Law :  
for the Years 1965 and 1967. :

Petitioners, William J. Buck and Margaret A. Buck, have 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 and 1967. (File No. 74544565.) A calendar call was scheduled at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, for February 26, 1974, at 10:00 A.M. On February 20, 1974, the petitioners, in writing, waived a formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

Did petitioner, William J. Buck's activities as a bread route salesman during the years 1965 and 1967 constitute the carrying on of an unincorporated business?

1. Petitioner, William J. Buck, and his wife filed New York State income tax resident returns for the years 1965 and 1967.

He did not file New York State unincorporated business tax returns for said years.

2. On November 20, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, William J. Buck, imposing unincorporated business tax upon the income received by him from his activities as a bread route salesman during the years 1965 and 1967. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency against him in the sum of \$232.93.

3. Petitioner, William J. Buck, was a bread route salesman in the years 1965 and 1967. He represented one firm, Arnold Bakers, and used his own truck in conducting his route business. He was charged by Arnold Bakers for the merchandise and then he sold it to his customers. He then collected all monies due from his customers, and was responsible to his principal for accounts receivable less his profit. He did not have any employees. He was not prohibited by Arnold Bakers from selling any other brands of merchandise.

4. In the years 1965 and 1967, the firm for whom petitioner, William J. Buck, was a bread route salesman, did not withhold Federal or New York State income taxes or social security tax. In addition, he was not covered for workmen's compensation or disability insurance by his principal. He deducted unreimbursed business expenses incurred in connection with his sales activities on Schedule "C" of his Federal income tax returns. He reported all of his income derived from the sale of bread products as "business income" on his New York State income tax returns. The firm for whom he sold

merchandise did not exercise any substantial direction or control over his sales activities or techniques or over the time he devoted to sales.

CONCLUSIONS OF LAW

A. That the income received by petitioner, William J. Buck, from the customers to whom he sold bread products during the years 1965 and 1967 constituted income from his regular business of selling bread products and not compensation as an employee of Arnold Bakers exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

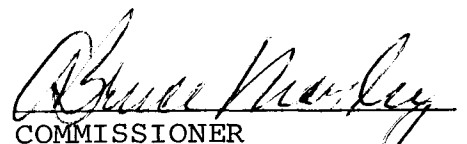
B. That the aforesaid activities of petitioner, William J. Buck, during the years 1965 and 1967 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of William J. Buck and Margaret A. Buck is denied and the Notice of Deficiency issued November 20, 1968, is sustained.

DATED: Albany, New York  
June 25, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER