



STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
VICTOR GOLDFARB

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) 1966, 1967 and:  
1968.

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 17th day of July , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Robert A. Levin,  
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: Robert A. Levin, C.P.A.


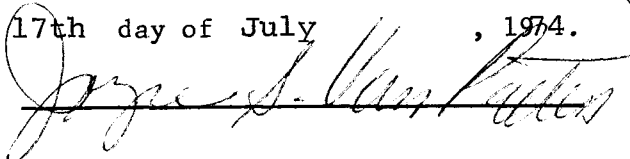
225 West 34th Street  
New York, New York 10001

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

17th day of July , 1974.





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

~~MILTON KOERNER~~ **Mario A. Procaccino**  
~~PRESIDENT~~

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York

**July 17, 1974**

**Mr. Victor Goldfarb**  
**418 Compass Street**  
**Uniondale, New York 11553**

**Dear Mr. Goldfarb:**

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,

**Nigel G. Wright**  
HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :

of :

VICTOR GOLDFARB :

DECISION

for Redetermination of Deficiency or for:  
Refund of Unincorporated Business Tax  
under Article 23 of the Tax Law for the :  
Years 1966, 1967 and 1968.

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Petitioner, Victor Goldfarb, 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 1966, 1967 and 1968. (File No. 8-18477951). A calendar call was scheduled before Commissioner Koerner at the offices of the State Tax Commission, 2 World Trade Center, New York, New York for April 2, 1974 at 2:00 P.M. On March 23, 1974, petitioner executed a written waiver of 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.

#### ISSUE

Did petitioner, Victor Goldfarb's activities as a clothing salesman, during the years 1966, 1967 and 1968, constitute the carrying on of an unincorporated business?

#### FINDINGS OF FACT

1. Petitioner, Victor Goldfarb, and his wife filed New York State income tax resident returns for the years 1966, 1967 and 1968. He did not file New York State unincorporated business tax returns for said years.

2. On May 24, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Victor Goldfarb, imposing unincorporated business tax upon the income received by him from his activities as a salesman during the years 1966, 1967 and 1968 and accordingly issued a Notice of Deficiency in the sum of \$1,121.24.

3. Petitioner, Victor Goldfarb, sold men's sportswear on a commission basis during the years 1966, 1967 and 1968. He represented three firms in 1966, two firms in 1967 and four firms in 1968. He generally sold the products of the different firms simultaneously to the same customers. He did not have any employees. He used one room in his home as an office.

4. During the years 1966, 1967 and 1968, the firms for whom petitioner, Victor Goldfarb, sold clothing did not withhold Federal or New York State income taxes or social security tax from the commissions paid to him. They did not reimburse him for any of his business expenses. He deducted expenses incurred in connection with his sales activities on Schedule "C" of his Federal income tax returns. He reported his commission income as "business income" on his New York State resident income tax returns. The firms for whom he sold merchandise did not exercise any substantial control or supervision over his sales activities or techniques or over the time he devoted to sales.

#### CONCLUSIONS OF LAW

A. That the income received by petitioner, Victor Goldfarb, from the firms he represented during the years 1966, 1967 and 1968 constituted income from his regular business of selling clothing as

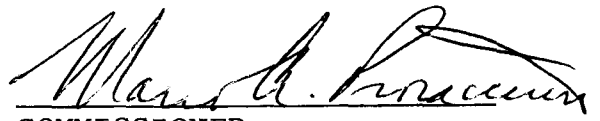
an independent contractor and not compensation as an employee exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That the aforesaid activities of petitioner, Victor Goldfarb, during the years 1966, 1967 and 1968, 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 Victor Goldfarb is denied and the Notice of Deficiency issued May 24, 1971, is sustained.

DATED: Albany, New York  
July 17, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
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DEPARTMENT OF TAXATION AND FINANCE

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HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
Department of Taxation and Finance

STATE CAMPUS  
ALBANY, N. Y. 12227

*[Handwritten signature]*

*2/10/74*

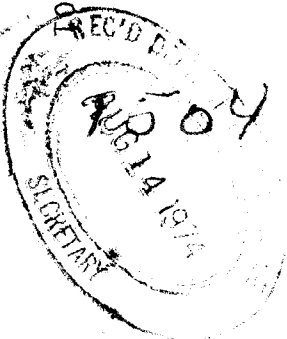
*U*

Robert A. Levin, C.P.A.

225 West 34th Street

New York, New York 10001

*7-2474*





PRAY  
FOR  
PEACE



STATE OF NEW YORK

STATE TAX COMMISSION

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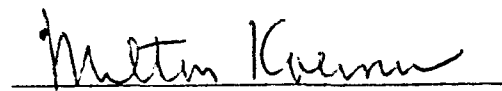
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