

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MILTON KREPS

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 ~~(*)~~ 23 of the
Tax Law for the Year(s) 1964 and 1965:

State of New York
County of Albany

JANET MACK

, 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 December , 1974, she served the within
Notice of Decision (~~xx Determination~~) by (certified) mail upon MILTON KREPS

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Mr. Milton Kreps
99 Plymouth Road
Plainview, 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)~~
~~xx~~ 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

day of

, 19 .

Martha Luzzaro

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MILTON KREPS

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 ~~(x)~~ 23 of the
Tax Law for the Year(s) 1964 and 1965.:

State of New York
County of Albany

JANET MACK, 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 December, 1974, she served the within
Notice of Decision (~~xxx xxx xxx xxx~~) by (certified) mail upon JOSEPH F. CARLINO, ESQ.

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

Joseph F. Carlino, Esq.
wrapper addressed as follows: Carlino Pearsall & Soviero
114 Old Country Road
Mineola, New York 11501

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 December, 1974

Monika Surano

Janet Mack



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
December 20, 1974

Mr. Milton Kreps
99 Plymouth Road
Plainview, New York

Dear Mr. Kreps:

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

Please take further notice that pursuant to
Section ~~722~~ 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,

Nigel G. Wright
Nigel G. Wright

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE TAX COMMISSION

The issue in this case is whether petitioner, a sales representative, is subject to the tax in unincorporated business.

FINDINGS OF FACT

1. Petitioner is a sales representative. He represents Specialty House, 48 West 38th Street, New York City, distributors of women's scarves and related items and J.T. Thorne Co. of Philadelphia, who distributed boutonnieres and other flowers. Thorne accounted for less than one-quarter of his commissions. He sold mainly to department stores and was restricted to the area of New York State, Western Pennsylvania, Ohio and Kentucky.

2. Petitioner was paid on a commission basis without guarantees. He used his own car and was not reimbursed for expenses.

3. Neither of petitioner's principals withheld amounts from his compensation for income taxes or social security.

CONCLUSIONS OF LAW

The petitioner is subject to tax. He is self-employed and is not an employee.

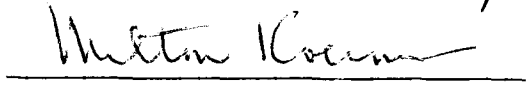
The deficiency is found to be correct and is due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
December 23, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER