

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

WILLIAM LOOS

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. :

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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 13th day of February, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon WILLIAM LOOS

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

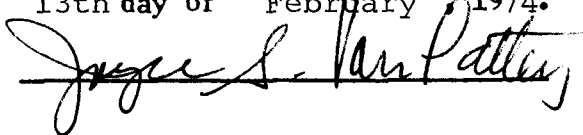
Mr. William Loos  
Woodhull Cove  
Oldfield, Setauket, New York 11785

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

13th day of February, 1974.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

Mario A. Procaccino  
~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York  
February 13, 1974

Mr. William Loos  
Woodhull Cove  
Oldfield, Setauket, New York 11785

Dear Mr. Loos:

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,

**Nigel G. Wright**

HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
WILLIAM LOOS	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Year 1966.	:	

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William Loos filed a petition for the redetermination of a deficiency notice issued under a timely consent on September 28, 1970, in the amount of \$452.86 plus interest of \$93.80 and a penalty under section 685(a) of the Tax Law for a total of \$659.87 for unincorporated business tax under Article 23 of the Tax Law for the year 1966.

A hearing was duly held before Nigel G. Wright, Hearing Officer, on December 5, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York, New York. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq. The record of said hearing has been duly examined and considered.

#### ISSUE

The issue in this case is whether petitioner is an independent contractor and subject to the unincorporated business tax.

#### FINDINGS OF FACT

1. Petitioner, William Loos, is a contract estimator and negotiator for several firms which were suppliers of architectural

5. Petitioner's estimating was done primarily at his home. His principals did not furnish him with work space.

6. Each principal paid petitioner an agreed upon salary in the range of \$8,500.00 to \$12,000.00 a year and set quotas for him in terms of the dollar volume of business found. Withholding for social security and taxes was made by Kalman, Bradley and North American. No withholding was made by Globe Amerada Glass Co. However, Globe Amerada Glass Co., in a letter, claims that petitioner was its employee during this period.

7. In 1967, petitioner told each of his principals of his activities for the other principals, whereupon they each dismissed him. He then found another job almost immediately.

#### CONCLUSIONS OF LAW

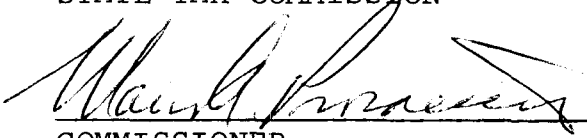
The fair preponderance of the evidence is that each of petitioner's principals had the right to control the manner and method by which he performed his duties. Petitioner is, therefore, an employee and is not subject to tax.

#### DECISION


The deficiency in issue is erroneous and is cancelled in its entirety.

DATED: Albany, New York  
February 13, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

building products. The firm he had been with the longest was Kalman Floor Company of White Plains, New York, a supplier of concrete flooring and footings. He then went with the Globe Amerada Glass Co. of Elk Grove Village, Illinois, a supplier of laminated flat glass, safety glass and similar products and then the Bradley Wash Fountain Co. of Menomonee Falls, Wisconsin, and the North American Winfield Door Co. of Lindenhurst, New York. His stay with North American Winfield Door Co. was brief as he found he could not handle the work.

2. Petitioner's work was primarily to examine blue prints and specifications for large scale construction projects and prepare bids based upon the use of the materials supplied by his principals. These bids would be given usually to a general contractor and made part of his bid to the owner or architect. If such bid was accepted the petitioner's principal would enter into contracts for the sale of his supplies. Petitioner would help negotiate the contracts.

3. Petitioner's principals would give him a list of contractors to see. They had final authority over all estimates and bids prepared by petitioner. He prepared reports for his principals. His principals would visit him when they were in New York City.

4. Petitioner's activities included visiting contractors and architects primarily in the New York City area, although the construction involved might be anywhere in the country. He would travel sometimes out of this area. He bore his own travel expenses except for extraordinary items such as an occasional trip to Europe.