

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

AARON PASTER

For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business :  
Taxes under Article(8) 23 of the  
Tax Law for the Year(s) 1964 and 1965 :

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

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 30th day of October , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Aaron Paster

~~(representative of)~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. Aaron Paster  
50 Park Avenue  
New York, 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)~~  
~~the~~ 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

30th day of October , 1974

Maitha Durano

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

AARON PASTER

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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) 1964 and 1965 :

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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 30th day of October , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Henry R. Scheinkman,  
Esq.

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

570 Seventh Avenue  
New York, New York 10018

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

30th day of October , 1974.

Matthew Duane

Janet Mack



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

~~XXXXXXXXXXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**October 30, 1974**

**Mr. Aaron Paster**  
**50 Park Avenue**  
**New York, New York**

**Dear Mr. Paster:**

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

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
AARON PASTER	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1964 and 1965.	:	

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Petitioner, Aaron Paster, 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 1964 and 1965. (File No. 46018948). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on July 19, 1974, at 9:00 A.M. Petitioner appeared by Henry R. Scheinkman, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUE

Did petitioner, Aaron Paster's selling activities during the years 1964 and 1965 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, Aaron Paster, and his wife filed New York State income tax resident returns for the years 1964 and 1965. He did not file New York State unincorporated business tax returns for said years.

2. On November 30, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Aaron Paster, imposing unincorporated business tax in the sum of \$938.12 upon the income received by him from his activities as a salesman during the years 1964 and 1965. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,225.41.

3. Petitioner, Aaron Paster, was a ladies' handbag salesman during the years 1964 and 1965. He represented two unaffiliated firms during the year 1964 and three unaffiliated firms during the year 1965. The products sold by him for each firm were non-competitive. He did not have any employees.

4. During the years 1964 and 1965, the firms for whom petitioner, Aaron Paster, sold merchandise did not withhold Federal or New York State income taxes or social security tax from the commissions paid to him. They did not cover him for unemployment or workmen's compensation insurance. 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. The firms for whom he sold merchandise did not exercise any substantial supervision or control over his sales activities or techniques or over the time he devoted to sales, except to limit the territory in which he could sell.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Aaron Paster, from the firms that he represented during the years 1964 and 1965, constituted income from his regular business of selling ladies' handbags 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, Aaron Paster, during the years 1964 and 1965, 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.

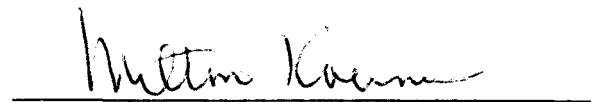
C. That the petition of Aaron Paster is denied and the Notice of Deficiency issued November 30, 1970, is sustained.

DATED: Albany, New York  
October 30, 1974

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER