

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
HAROLD PETERS

:
:
:
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 & 1965 :

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 3rd day of May , 19 74, she served the within
Notice of Decision (or Determination) by (certified) mail upon Harold Peters

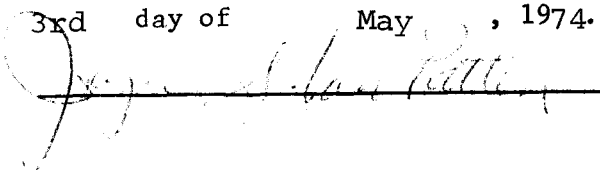
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. Harold Peters
2750 Northeast 183rd Street
Apt. 912
North Miami Beach, Florida 33160
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

3rd day of May , 1974.





STATE OF NEW YORK
STATE TAX COMMISSION

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HAROLD PETERS

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OF NOTICE OF DECISION
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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 & 1965 :

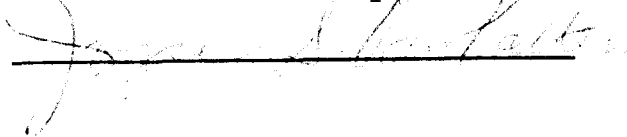
State of New York
County of Albany

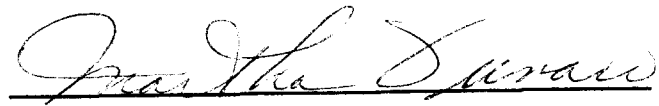
Martha Funaro , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 3rd day of May , 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Robert Bronsteen,
C.P.A.
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Robert Bronsteen, C.P.A.
Edward Bronsteen & Company
512 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

3rd day of May , 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
Mario A. Procaccino
~~XXXXXXXXXX~~, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

May 3, 1974

Mr. Harold Peters
2750 Northeast 183rd Street
Apt. 912
North Miami Beach, Florida 33160

Dear Mr. Peters:

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

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

Harold Peters, filed a petition under sections 689 and 722 of the Tax Law for the redetermination of a deficiency issued April 11, 1969, in the amount of \$929.82, plus interest of \$196.73, for a total of \$1,126.55 for unincorporated business taxes under Article 23 of the Tax Law for the years 1964 and 1965.

A hearing was duly held on October 30, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The petitioner was represented by Robert Bronsteen, C.P.A., of Edward Bronsteen and Company. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Albert J. Rossi, Esq.

The record of said hearing has been duly examined and considered.

ISSUE

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

FINDINGS OF FACT

1. Petitioner, during the years in question, was a resident of Brooklyn, New York. Since then he has moved to North Miami Beach, Florida.

2. Petitioner was a sales representative for various manufacturers selling ladies handbags. The occupation listed on his tax return is "independent outside salesman". From 65% to 80% of his commission came from one company, Saber Handbags, Inc. of 22 West 32nd Street, New York City. Commissions also came from John Wind, Inc. of Chicago and Triangle Handbags Manufacturing Company, Inc. His expenses amounted to about 40% of his commission and were not reimbursed.

3. Petitioner's territory was set by Saber and included the New England states; New York, Pennsylvania, Maryland and Washington, D.C.

4. During the years in question, some of the companies petitioner worked for withheld either taxes or social security. In 1968 Saber Handbags began withholding taxes. Petitioner paid Federal self-employment tax.

5. Petitioner does not maintain an office or employ assistants.

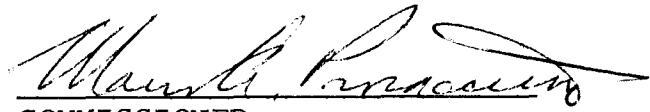
CONCLUSIONS OF LAW


Petitioner has not carried the burden of proof that his alleged employer had the right to supervise and control his activities. He is subject to tax (See Frischman v. STC 33 AD 2d 1071).

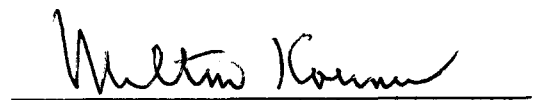
The deficiency is found to be correct and is due together with such interest as may be computed under section 684 of the Tax Law.

DATED: Albany, New York
May 3, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER