

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MAX PICARD and AUDREY PICARD

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) 1960, 1961 &
1962

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 25th day of June , 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Max & Audrey Picard

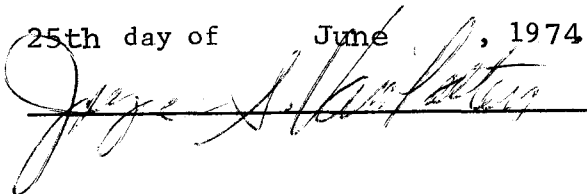
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. & Mrs. Max Picard
9 Harcourt Road
Scarsdale, New York

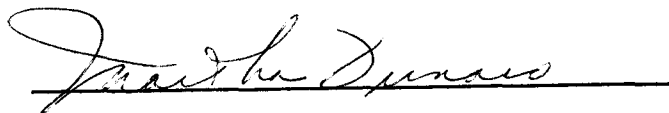
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

25th day of June , 1974





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
MAX PICARD and AUDREY PICARD

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
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For a Redetermination of a Deficiency or
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Tax Law for the Year(s) 1960, 1961 &
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State of New York
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age, and that on the 25th day of June, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Thomas H. Cullinan,
Esq.

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

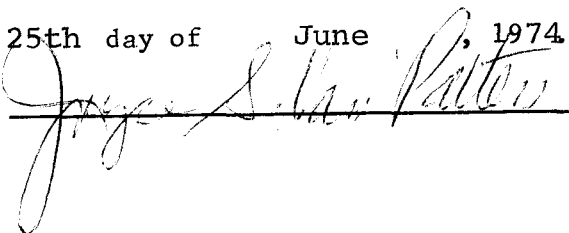
686 Port Washington Boulevard
Port Washington, New York

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known address of the (representative of the) petitioner.

Sworn to before me this

25th day of June, 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
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
Mario A. Proccaccino
~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

June 25, 1974

**Mr. & Mrs. Max Picard
9 Harcourt Road
Scarsdale, New York**

Dear Mr. & Mrs. Picard:

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,


Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
MAX PICARD and AUDREY PICARD	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1960, 1961 and 1962.	:	

Petitioners, Max Picard and Audrey Picard, filed a petition for redetermination of a deficiency or for a refund of unincorporated business tax under Article 23 of the Tax Law for the tax years 1960, 1961 and 1962. (File No. 3-8500107.) A formal hearing was held before Evelyn King, Esq., Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on Monday, April 7, 1969, at 10:30 A.M. Petitioners, Max Picard and Audrey Picard, appeared by Thomas H. Cullinan, Esq.

ISSUES

1. Did the activities of petitioner, Max Picard, as a salesman during the years 1960, 1961 and 1962 constitute the carrying on of an unincorporated business?
2. If petitioner, Max Picard, was carrying on an unincorporated business during the years 1960, 1961 and 1962, what portion of the income derived therefrom should be allocated to New York State?

FINDINGS OF FACT

1. Petitioners, Max Picard and Audrey Picard, filed New York

State income tax resident returns for the years 1960, 1961 and 1962. They did not file New York State unincorporated business tax returns for said years.

2. On May 10, 1965, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Max Picard and Audrey Picard, imposing unincorporated business tax upon the income received by them from petitioner, Max Picard's activities as a salesman during the years 1960, 1961 and 1962, and, accordingly, issued a Notice of Deficiency.

3. Petitioner, Max Picard, was a commission salesman of women's fashions during the years 1960, 1961 and 1962. He sold goods for six different firms. Petitioner used two of his principals' offices in New York City, rent free, where he employed two persons whose principal duties were selling in showrooms, expediting shipments to customers and handling orders by mail. Petitioner regularly and systematically carried on his business activities at these offices.

4. Petitioner, Max Picard, also maintained an office in Houston, Texas, in connection with his work for Casual Corner Co., Inc. which had offices both in Houston and Dallas, Texas.

5. Petitioner, Max Picard, received \$4,200 from Casual Corner Co., Inc. in 1960 and \$4,900 from Casual Corner Co., Inc. in 1961.

6. Petitioner, Max Picard's wife, Audrey Picard, was not involved in the carrying on of an unincorporated business during the years 1960, 1961 and 1962.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Max Picard, as a salesman during the years 1960, 1961 and 1962 constituted income from his regular business as a women's fashions salesman 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 income received by petitioner, Max Picard, from his activities as a salesman during the years 1960, 1961 and 1962 is subject to unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the office maintained by petitioner, Max Picard, in Houston, Texas, constituted a regular place of business outside of New York State in accordance with the meaning and intent of section 707(a) of the Tax Law.

D. That since petitioner, Max Picard, carried on his business within and without New York State and since he maintained a regular place of business outside of New York State, therefore, a fair and equitable allocation of his unincorporated business net income must be made in accordance with the meaning and intent of section 707(a) of the Tax Law.

E. That in computing petitioners, Max and Audrey Picards' unincorporated business tax liability for the years 1960, 1961 and 1962, the \$4,200 received by petitioner, Max Picard, in 1960 from Casual Corner Co., Inc. and \$4,900 received by him in 1961


from Casual Corner Co., Inc. should be excluded from New York business income.

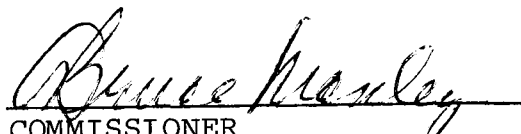
F. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued against petitioner, Max Picard, and that except as so modified the Notice of Deficiency is sustained and the petition of Max Picard is denied.

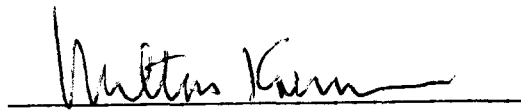
G. That the Income Tax Bureau is hereby directed to cancel the Notice of Deficiency issued against petitioner, Audrey Picard.

DATED: Albany, New York
June 25, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227

Do not return in this envelope

MR. & MRS. Max Picard

9 Harcourt Road

Scarsdale, New York

☒ Moved, left no address
☐ No such number
☒ Moved, not forwarding
☒ Addressed incorrectly

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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

~~Revised July 2, 1974~~
Dated: Albany, New York

June 25, 1974

Mr. & Mrs. Max Picard
9 Harcourt Road
Scarsdale, New York

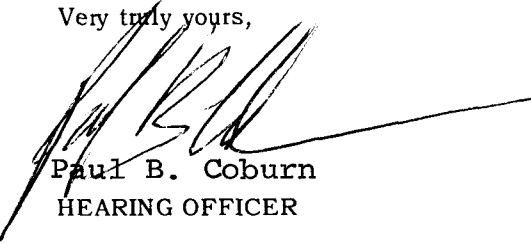
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Any inquiries concerning the computation of tax due or refund allowed
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Very truly yours,


Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
MAX PICARD and AUDREY PICARD	:	
for Redetermination of Deficiency or	:	DECISION
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1960, 1961 and 1962.	:	

Petitioners, Max Picard and Audrey Picard, filed a petition for redetermination of a deficiency or for a refund of unincorporated business tax under Article 23 of the Tax Law for the tax years 1960, 1961 and 1962. (File No. 3-8500107.) A formal hearing was held before Evelyn King, Esq., Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on Monday, April 7, 1969, at 10:30 A.M. Petitioners, Max Picard and Audrey Picard, appeared by Thomas H. Cullinan, Esq.

ISSUES

1. Did the activities of petitioner, Max Picard, as a salesman during the years 1960, 1961 and 1962 constitute the carrying on of an unincorporated business?
2. If petitioner, Max Picard, was carrying on an unincorporated business during the years 1960, 1961 and 1962, what portion of the income derived therefrom should be allocated to New York State?

FINDINGS OF FACT

1. Petitioners, Max Picard and Audrey Picard, filed New York

In the Matter of the Petition

MAX PICARD and ANNE PICARD

DECEASED

for Reconsideration of a determination of deficiency for Return of Income for the years 1950, 1951 and 1952, Tax under Article 22 of the Tax Law.

Petitioners Max Picard and Anne Picard, filed a petition

for reconsideration of a determination of deficiency for the years 1950, 1951 and 1952.

located business for which Article 22 of the Tax Law for the

tax years 1950, 1951 and 1952. (File No. 1-1000107) A formal

hearing was held before the State Tax Commission, at the

office of the State Tax Commission, at Central Street, New

York, New York, on Monday, April 1, 1956, at 10:30 A.M. Petitioners

Max Picard and Anne Picard, appeared by Thomas H. Sullivan, Esq.

FACTS

1. The petition of petitioners Max Picard and Anne

Picard during the years 1950, 1951 and 1952 concerns the

carrying on of an unincorporated business.

2. The petitioners Max Picard and Anne Picard, who were

located business during the years 1950, 1951 and 1952, who were

of the income derived therefrom should be allocated to New York

REASONING OF PETITIONERS

Petitioners Max Picard and Anne Picard, filed their petition

State income tax resident returns for the years 1960, 1961 and 1962. They did not file New York State unincorporated business tax returns for said years.

2. On May 10, 1965, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Max Picard and Audrey Picard, imposing unincorporated business tax upon the income received by them from petitioner, Max Picard's activities as a salesman during the years 1960, 1961 and 1962, and accordingly, issued a Notice of Deficiency.

3. Petitioner, Max Picard, was a commission salesman of women's fashions during the years 1960, 1961 and 1962. He sold goods for six different firms. Petitioner used two of his principals' offices in New York City, rent free, where he employed two persons whose principal duties were selling in showrooms, expediting shipments to customers and handling orders by mail. Petitioner regularly and systematically carried on his business activities at these offices.

4. Petitioner, Max Picard, also maintained an office in Houston, Texas, in connection with his work for Casual Corner Co., Inc. which had offices both in Houston and Dallas, Texas.

5. Petitioner, Max Picard, received \$4,200 from Casual Corner Co., Inc. in 1960 and \$4,900 from Casual Corner Co., Inc. in 1961.

6. Petitioner, Max Picard's wife, Audrey Picard, was not involved in the carrying on of an unincorporated business during the years 1960, 1961 and 1962.

State income tax returns for the years 1960, 1961 and 1962. They did not file New York State income tax returns for each year.

3. On May 10, 1963, the Income Tax Bureau issued a statement of Audit Changes against petitioners, Max Picard and Audrey Picard, reporting unincorporated business tax upon the income received by them from petitioners, Max Picard's activities as a salesman during the years 1960, 1961 and 1962, and accordingly, issued a notice of deficiency.

3. Petitioner, Max Picard, was a commissioned salesman of women's fashions during the years 1960, 1961 and 1962. He sold goods for his different firms. Petitioner used two of his principals' offices in New York City, New York, where he employed two persons whose principal duties were selling in showrooms, expediting shipments to customers and handling orders by mail. Petitioner regularly and systematically carried on his business activities at these offices.

4. Petitioner, Max Picard, also maintained an office in Houston, Texas, in connection with his work for Casual Corner Co., Inc. which had offices both in Houston and Dallas, Texas. 5. Petitioner, Max Picard, received \$4,300 from Casual Corner Co., Inc. in 1960 and \$4,900 from Casual Corner Co., Inc. in 1961.

6. Petitioner, Max Picard's wife, Audrey Picard, was not involved in the carrying on of an unincorporated business during the years 1960, 1961 and 1962.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Max Picard, as a salesman during the years 1960, 1961 and 1962 constituted income from his regular business as a women's fashions salesman 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 income received by petitioner, Max Picard, from his activities as a salesman during the years 1960, 1961 and 1962 is subject to unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the office maintained by petitioner, Max Picard, in Houston, Texas, constituted a regular place of business outside of New York State in accordance with the meaning and intent of section 707(a) of the Tax Law.

D. That since petitioner, Max Picard, carried on his business within and without New York State and since he maintained a regular place of business outside of New York State, therefore, a fair and equitable allocation of his unincorporated business net income must be made in accordance with the meaning and intent of section 707(a) of the Tax Law.

E. That in computing petitioners, Max and Audrey Picards' unincorporated business tax liability for the years 1960, 1961 and 1962, the \$4,200 received by petitioner, Max Picard, in 1960 from Casual Corner Co., Inc. and \$4,900 received by him in 1961

REVENUES OF TAX

A. That the income received by petitioner, Max Picard, as a salesman during the years 1960, 1961 and 1962 was not income from his regular business as a women's fashion salesman and not compensation as an employee except from the income of the unincorporated business tax in accordance with the meaning and intent of section 707 (a) of the Tax Law.

B. That the income received by petitioner, Max Picard, from his activities as a salesman during the years 1960, 1961 and 1962 is subject to unincorporated business tax in accordance with the meaning and intent of section 707 (a) of the Tax Law.

C. That the office maintained by petitioner, Max Picard, in Washington, D.C. constituted a regular place of business outside of New York State in accordance with the meaning and intent of

section 707 (a) of the Tax Law.
D. That since petitioner, Max Picard, carried on his business within and without New York State and since he maintained a regular place of business outside of New York State, therefore, a fair and equitable allocation of his unincorporated business net income must be made in accordance with the meaning and intent of section 707 (a) of the Tax Law.

E. That in computing petitioner's, Max and Audrey Picard's, unincorporated business tax liability for the years 1960, 1961 and 1962, the \$4,200 received by petitioner, Max Picard, in 1960 from General Corner Co., Inc. and \$1,000 received by him in 1961

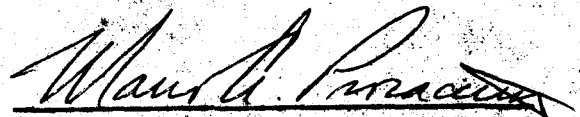
from Casual Corner Co., Inc. should be excluded from New York business income.

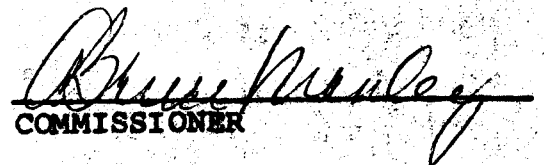
F. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued against petitioner, Max Picard, and that except as so modified the Notice of Deficiency is sustained and the petition of Max Picard is denied.

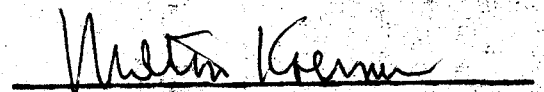
G. That the Income Tax Bureau is hereby directed to cancel the Notice of Deficiency issued against petitioner, Audrey Picard.

DATED: Albany, New York
June 25, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER

From General Counsel, City of New York, dated March 1, 1974.

Business income.

2. That the income tax return is hereby filed to account

indirectly modify the position of petitioner's income against petitioner's
tax return, and that the return is so modified as to reflect the position of petitioner
is sustained and the petition of tax return is denied.

3. That the income tax return is hereby filed to account
the income of petitioner's income against petitioner's income.

STATE TAX COMMISSION

DATED: Albany, New York
June 25, 1974

COMMISSIONER

COMMISSIONER

COMMISSIONER