

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH E. SKLAR

:  
:  
:  
:  
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) 1967, 1968, 1969,  
1970 & 1971

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 Joseph E. Sklar

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

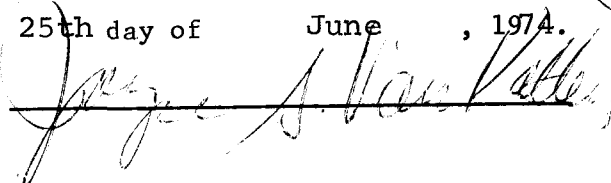
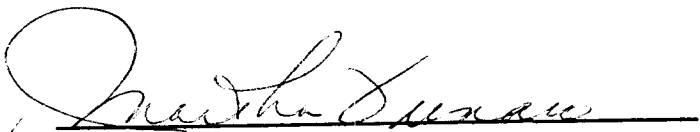
wrapper addressed as follows: Mr. Joseph E. Sklar  
12004 Poinciana Blvd.  
Royal Palm Beach, Florida 33406.

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  
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. Proaccino  
~~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

**June 25, 1974**

**Mr. Joseph E. Sklar**  
**12004 Poinciana Blvd.**  
**Royal Palm Beach, Florida 33406**

**Dear Mr. Sklar:**

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

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In the Matter of the Petition	:	
of	:	
JOSEPH E. SKLAR	:	DECISION
for Redetermination of Deficiency	:	
or for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law for	:	
the Years 1967, 1968, 1969, 1970 and 1971.	:	

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Petitioner, Joseph E. Sklar, 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 1967, 1968, 1969, 1970 and 1971. (File Nos. 8-18344915 and 1-78387121).

On February 13, 1974, petitioner, Joseph E. Sklar, advised the State Tax Commission, in writing, that he waived a formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record:

ISSUE

Did petitioner, Joseph E. Sklar's, selling activities during the years 1967 through 1971 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, Joseph E. Sklar, and his wife filed a New York State income tax resident return for the years 1967 through 1971. He did not file New York State unincorporated business tax returns for said years.

2. On January 29, 1973, the Income Tax Bureau issued statements of audit changes against petitioner, Joseph E. Sklar, imposing unincorporated business tax upon the income received by him from his activities as a salesman during the years 1967 through 1971. In accordance with the aforesaid statements of audit changes, it issued notices of deficiency in the total sum of \$3,814.31.

3. During the years 1967 through 1971, petitioner, Joseph E. Sklar, was a costume jewelry and watch salesman. He represented several unaffiliated firms in the sale of these items. The products sold by him for each firm were noncompetitive. He sold the products generally to the same customers. He did not have any employees or an office.

4. During the year 1971, only one of the firms for whom petitioner, Joseph E. Sklar, sold merchandise withheld Federal and New York State income taxes and social security tax from the commissions paid to him. He was not reimbursed for any of his business expenses. He deducted these business expenses from his gross commission income on his Federal income tax return. The firms for whom he sold merchandise did not exercise any substantial supervision or control over his sales activities and 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, Joseph E. Sklar, from the firms he represented during the years 1967 through 1971, constituted income from his regular business of selling costume jewelry and watches and not income as an employee exempt from the

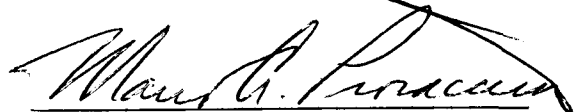
imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That the aforesaid activities of petitioner, Joseph E. Sklar, during the years 1967 through 1971, 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.

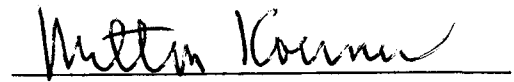
C. That the petition of Joseph E. Sklar is denied, and the notices of deficiency issued January 29, 1973, are sustained.

DATED: Albany, New York  
June 25, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER