

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

BERNARD R. HALE

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) 1971, 1972 &
1973.

State of New York
County of Albany

MARY GROFF

, 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 17th day of December, 1975, she served the within
Notice of Decision (~~on Redetermination~~) by (certified) mail upon BERNARD R. HALE

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

Mr. Bernard R. Hale
Warrington Greenway Village North
Apartment 210

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

17th day of December, 1975

Janet Mack

Mary Groff

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

BERNARD R. HALE

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business :
Taxes under Article ~~(x)~~ 23 of the
Tax Law for the Year(s) 1971, 1972 and :
1973.

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

State of New York
County of Albany

MARY GROFF, 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 17th day of December, 1975, she served the within
Notice of Decision (~~on Redetermination~~) by (certified) mail upon ROBERT GOLD, 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 Gold, C.P.A.
26 Glenwood Road
Roslyn Harbor, New York 11576

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

17th day of December, 1975

Janet Meeh

Mary Groff



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER
(518) ~~XXXXXX~~
457-3850

DATED: Albany, New York
December 17, 1975

Mr. Bernard R. Hale
Warrington Greenway Village North
Apartment 210
Royal Palm Beach, Florida 33406

Dear Mr. Hale:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section ~~(a)~~ **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

AD-1.12 (8/73)

STATE OF NEW YORK

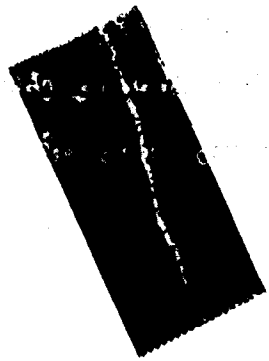
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
BERNARD R. HALE	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Unincorporated	:	
Business Taxes under Article 23 of	:	
the Tax Law for the Years 1971, 1972	:	
and 1973.	:	

Petitioner, Bernard R. Hale, Warrington Greenway Village North, Apartment 210, Royal Palm Beach, Florida 33406, timely filed New York State income tax return for the years 1971, 1972 and 1973. A Notice of Determination of deficiencies in unincorporated business taxes for the years in issue was issued on January 27, 1975, against the taxpayers under File No. 3-49106964.

Petitioner, Bernard R. Hale, petitioned for a redetermination of deficiencies in personal income and unincorporated business taxes under Article 23 of the Tax Law for the years 1971, 1972 and 1973.

A formal hearing was held at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 12, 1975, at 1:00 P.M. before Nigel G. Wright, Hearing Officer. Robert Gold, C.P.A. appeared for the petitioner. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James Scott, Esq. of counsel).



ISSUE

Whether petitioner, Bernard R. Hale's income from activities as a sales agent was subject to New York State unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Bernard R. Hale, is a resident of Florida. Until November 15, 1973, he resided at 6 Greenway, Roslyn, New York.

2. In November, 1970, petitioner retired from the A.C. Horn Company, Long Island City, New York. He had been employed by that company for 40 years and at the time of his retirement petitioner was a vice-president in charge of the products finishing division.

3. After his retirement petitioner, Bernard R. Hale, was solicited by Patterson-Sargent, a division of Textron, Inc. to act as a sales agent for them on a commission basis. He later became a sales representative for William Recht Co., Inc., also on a commission basis. The accounts that he handled for the two companies were related to metal lithographic coatings which petitioner was knowledgeable about from his former employment. He did not make collections or receive orders for either company.

4. Petitioner, Bernard R. Hale, did not participate in the pension plans of either company, he did not have an office at either company's place of business. He kept his files at his home, he paid his own social security and had his own pension arrangement as a self-employed individual.

5. Petitioner, Bernard R. Hale, only worked a few days a month. He serviced his accounts at his own discretion.

CONCLUSIONS OF LAW

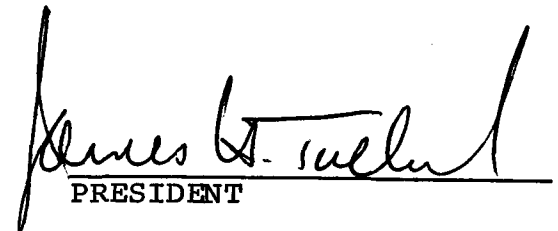
A. That petitioner, Bernard R. Hale, carries on an unincorporated business within the meaning and intent of section 703 of the Tax Law.

B. The petition is denied and the Notice of Determination of deficiency issued January 27, 1975, is sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
December 17, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER