

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR LURIA

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 through :
1970.

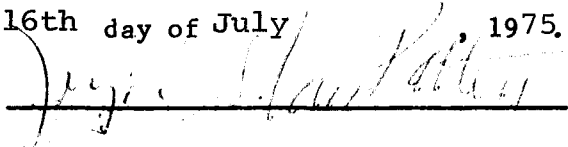
State of New York
County of Albany

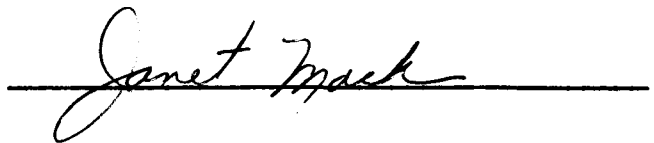
JANET MACK, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 16th day of July, 1975, she served the within
Notice of Decision (~~or Determination~~) by (certified) mail upon Arthur Luria
(~~representative of~~) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Arthur Luria
102-10 66th Road
Forest Hills, New York 11375
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

16th day of July, 1975.





STATE OF NEW YORK
STATE TAX COMMISSION

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ARTHUR LURIA

AFFIDAVIT OF MAILING
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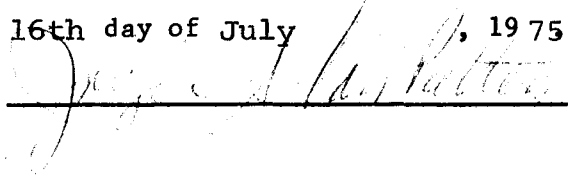
State of New York
County of Albany

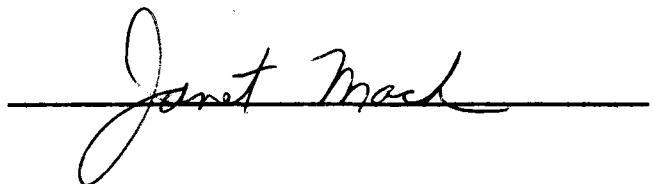
JANET MACK, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 16th day of July, 1975, she served the within
Notice of Decision (~~on Determination~~) by (certified) mail upon Julius A. Baylis, CPA
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Julius A. Baylis, CPA
1457 Broadway
New York, New York 10036
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

16th day of July, 1975







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

James H. Tully, Jr.
~~SECRETARY~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655

MR. LEISNER 457-2657

MR. COBURN 457-2896

DATED: Albany, New York
July 16, 1975

Mr. Arthur Luria
102-10 66th Road
Forest Hills, New York 11375

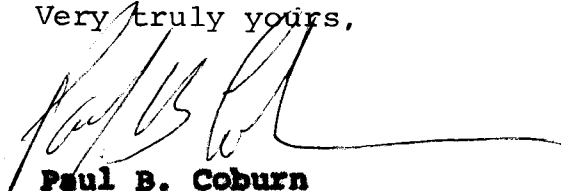
Dear Mr. Luria:

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

Please take further notice that pursuant to
Section **(x) 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

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ARTHUR LURIA	:	
for Redetermination of Deficiency or	:	DECISION
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1964 through 1970.	:	
	:	

Petitioner, Arthur Luria, residing at 102-10 66th Road, Forest Hills, New York 11375, 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 through 1970. (File Nos. 6-66049311 and 0-64328354). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 24, 1975, at 1:30 P.M. Petitioner appeared by Julius A. Baylis, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James A. Scott, Esq. of counsel).

ISSUE

Did petitioner, Arthur Luria's selling activities during the years 1964 through 1970 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, Arthur Luria, and his wife filed New York State income tax resident returns for the years 1964 through 1970. He

did not file New York State unincorporated business tax returns for said years.

2. On December 18, 1972, the Income Tax Bureau issued statements of audit changes against petitioner, Arthur Luria, imposing unincorporated business tax upon the income received by him from his activities as a gift ware and notions salesman during the years 1964 through 1970 in the total sum of \$5,389.45. In accordance with the aforesaid statements of audit changes, it issued notices of deficiency against him in the total sum of \$6,713.74.

3. Petitioner, Arthur Luria, was a gift ware and notions salesman during the years 1964 through 1970. He represented two to three unaffiliated firms in the sale of said items. The merchandise sold for each firm were noncompetitive. He did not have any employees. He used one room in his home as an office.

4. During the years 1964 through 1970, the firms for whom petitioner, Arthur Luria, 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 insurance. One of the firms did cover him for workmen's compensation, automobile liability and hospitalization insurance. He was not reimbursed 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 control or supervision 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, Arthur Luria, from the firms that he represented during the years 1964 through 1970 constituted income from his regular business of selling gift ware and notions 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, Arthur Luria, during the years 1964 through 1970 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.

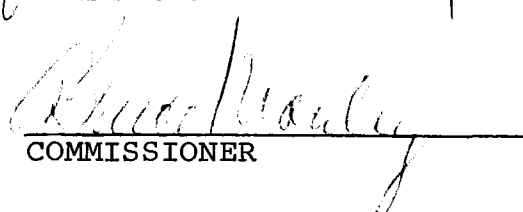
C. That the petition of Arthur Luria is denied and the notices of deficiency issued December 18, 1972, are sustained.

DATED: Albany, New York

July 16, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER