

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
RUBIN MEDOFF

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
and 1969.

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 3rd day of December, 1975, she served the within
Notice of Decision ~~(for Determination)~~ by (certified) mail upon Rubin Medoff,

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

Mr. Rubin Medoff
1029 East 12th Street
Brooklyn, 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)~~
~~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 December, 1975.

Mary Groff

Janet Mack



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) 457-3336

DATED: Albany, New York
December 3, 1975

Mr. Rubin Medoff
1029 East 12th Street
Brooklyn, New York

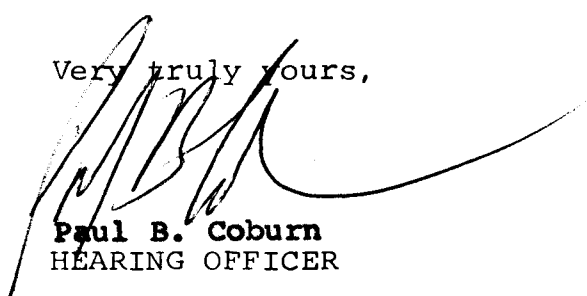
Dear Mr. Medoff:

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

Please take further notice that pursuant to
Section ~~xxx~~ 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: ~~Reproduction of Request for Review~~
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RUBIN MEDOFF	:	
for Redetermination of Deficiency or	:	DECISION
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1967, 1968 and 1969.	:	

Petitioner, Rubin Medoff, 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 and 1969. (File No. 944336614.) A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on October 24, 1974, at 10:45 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUE

Did petitioner, Rubin Medoff's selling activities on behalf of Ace Sales Company and its successor M.T.H. Sales Reps. Assoc., Inc. during the years 1967 and 1968 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, Rubin Medoff, and his wife filed New York State income tax resident returns for the years 1967, 1968 and

1969. He did not file New York State unincorporated business tax returns for said years.

2. On July 30, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Rubin Medoff, imposing unincorporated business tax upon the income received by him from his activities as a salesman during the years 1967, 1968 and 1969. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,410.83, less remittances of \$621.00 applied against the deficiency, leaving a balance due of \$789.83.

3. Petitioner, Rubin Medoff, conceded and stipulated at the formal hearing that he was engaged in an unincorporated business during the year 1969, and that his income derived therefrom was subject to the unincorporated business tax.

4. During the years 1967 and 1968, petitioner, Rubin Medoff, was a hardware and garden supply salesman. He represented Ace Sales Company and its successor, M.T.H. Sales Reps. Assoc., Inc. These companies acted as a sales representative for approximately ten manufacturers of hardware and garden supplies. He did not have any employees. He did not have an office.

5. During the years 1967 and 1968, Federal and New York State income tax and social security tax was withheld from the commissions paid to petitioner, Rubin Medoff. He was covered for workmen's compensation, unemployment and health insurance. He was not reimbursed for any of his business expenses, which expenses amounted to approximately one-third of his gross commissions. He reported his commission income on Schedule "C" of his Federal income tax returns. The firms for whom he sold merchandise did not exercise any substantial supervision or control over his sales activities or techniques or over the time he devoted to sales, except to limit the territory and types of stores where he could sell.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Rubin Medoff, from Ace Sales Company and its successor M.T.H. Sales Reps. Assoc., Inc. during the years 1967 and 1968, constituted income from his regular business of selling hardware and garden supplies 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, Rubin Medoff, during the years 1967 and 1968, 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 Rubin Medoff is denied and the Notice of Deficiency issued July 30, 1973, is sustained.

DATED: Albany, New York
December 1, 1975

STATE TAX COMMISSION



PRESIDENT



COMMISSIONER

COMMISSIONER