

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
IRVING MINKIN

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) 1968 and 1969:

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 23rd day of December, 1975, she served the within  
Notice of Decision (~~xx Determination~~) by (certified) mail upon Irving Minkin

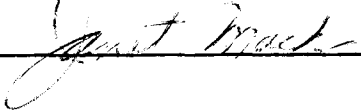
(~~representative of~~) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. Irving Minkin  
3697 Libby Lane  
Wantagh, New York

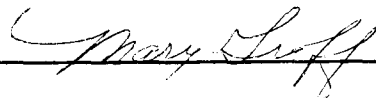
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Post Office Department within the State of New York.

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

23rd day of December, 1975.

  
\_\_\_\_\_  
Notary Public

  
\_\_\_\_\_  
Mary Groff

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
IRVING MINKIN

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 (8) 23 of the  
Tax Law for the Year(s) 1968 and 1969 :

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 23rd day of December , 1975 , she served the within

Notice of Decision (~~for Redetermination~~) by (certified) mail upon Bertrand Leopold, Esq.

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Bertrand Leopold, Esq.  
18 Joseph Street  
New Hyde Park, N.Y.

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.

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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

23rd day of December , 1975

*Just [illegible]*

*Mary Groff*



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

PAUL GREENBERG  
SECRETARY TO  
COMMISSION

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

AREA CODE 518

STATE TAX COMMISSION

JAMES H. TULLY, JR., PRESIDENT  
MILTON KOERNER

ADDRESS YOUR REPLY TO

Mr. Wright  
Mr. Leisner  
Mr. Coburn  
(518) 457-3850

**DATED:** Albany, New York  
**December 23, 1975**

**Mr. Irving Minkin**  
**3697 Libby Lane**  
**Wantagh, New York**

**Dear Mr. Minkin:**

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

**PAUL B. COBURN**

HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

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

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Petitioner, Irving Minkin, residing at 3697 Libby Lane, Wantagh, New York, 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 1968 and 1969. (File No. 9-38408458).

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 September 26, 1975, at 10:40 a.m. Petitioner appeared by Bertrand Leopold, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Alexander Weiss, Esq. of counsel).

#### ISSUES

I. Did petitioner, Irving Minkin's activities as a dress salesman during the years 1968 and 1969 constitute the carrying on of an unincorporated business?

II. Did petitioner, Irving Minkin, negligently or intentionally disregard the provisions of Articles 22 and 23 of the Tax Law in connection with alleged deficiencies for the years 1968 and 1969?

FINDINGS OF FACT

1. Petitioner, Irving Minkin, and his wife filed New York State combined income tax returns for the years 1968 and 1969. He did not file New York State unincorporated business tax returns for said years.

2. On May 31, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Irving Minkin, imposing unincorporated business tax upon his income as a commission salesman during the year 1968 in the sum of \$741.33 and during the year 1969 in the sum of \$1032.74. It also imposed additional personal income tax for the year 1968 in the sum of \$491.40 and for the year 1969 in the sum of \$996.75 as a result of a Federal audit, which items are not being contested by him. It further imposed a penalty pursuant to section 685(b) of the Tax Law for said years in the sum of \$163.11. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$4,106.00.

3. Petitioner, Irving Minkin, was a dress salesman during the years 1968 and 1969. He sold merchandise for five unaffiliated firms during the year 1968 and four unaffiliated firms during the

year 1969. The items sold by him for each firm were noncompetitive. He sold their products to basically the same customers. He did not have any assistants or employees. He maintained an office in his home.

4. Petitioner, Irving Minkin, earned gross commissions from Domani Knits totaling \$22,500.00 during the year 1968 and \$23,200.00 during the year 1969. Federal and New York State income taxes and social security tax were withheld from the commissions paid to him. It covered him for workmens compensation, unemployment, disability and hospitalization insurance. He was not reimbursed for any of his expenses. He deducted expenses incurred in connection with his sales activities on Schedule "C" of his Federal income tax returns. Fifty percent of advertising allowances given to his customers were deducted from his commissions. He received commissions only on goods shipped, received, accepted and paid for. He received a draw against commissions. He was not allowed to carry other lines without Domani Knits' permission. He paid for his own samples. He was required to furnish his road itinerary one week in advance. He did not receive any vacation pay. Domani Knits did not exercise any substantial control or supervision over his sales activities and techniques or over the time that he devoted to sales, except to limit the territory in which he could sell.

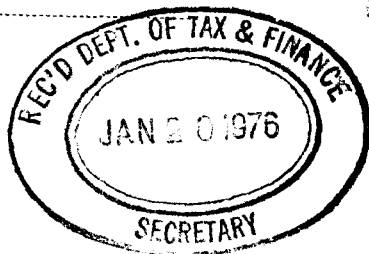
5. Petitioner, Irving Minkin, earned gross commissions from Pomette Fashions Corp. during the year 1968 in the sum of \$4,716.65 and during the year 1969 in the sum of \$8,036.75. He earned gross commissions from George Gering in the sum of \$925.00 during the year 1968 and \$525.00 during the year 1969. He earned gross commissions from Tiara Fashions in the sum of \$471.58 during the year 1968 and \$496.74 during the year 1969. He earned gross commissions in the sum of \$250.00 from Kay Kipps during the year 1968. These firms, with the exception of George Gering for the year 1968, 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 workmens compensation, unemployment, disability or hospitalization insurance. He was not reimbursed for any of his expenses. They did not exercise any substantial direction or control over his sales activities and techniques or over the time that he devoted to sales, except to limit the territory in which he could sell.

6. Petitioner, Irving Minkin, did not negligently or intentionally disregard Articles 22 and 23 of the Tax Law or regulations thereunder in connection with the deficiency set forth in the Statement of Audit Changes dated May 21, 1973.

DEPARTMENT OF TAXATION AND FINANCE

To.....Joyce.....

Remailed regular mail.



1/20/76

From PAUL B. COBURN



CONCLUSIONS OF LAW

A. That the income received by petitioner, Irving Minkin, from the firms that he represented during the years 1968 and 1969 constituted income from his regular business of selling dresses 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.

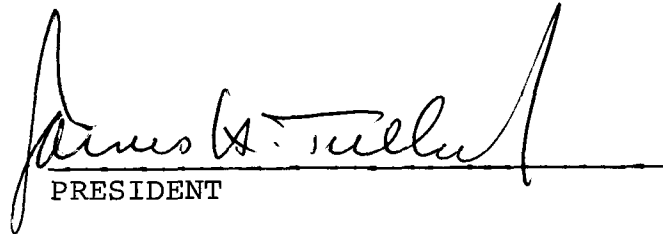
B. That the aforesaid activities of petitioner, Irving Minkin, during the years 1968 and 1969 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That no part of the deficiency as set forth in the Statement of Audit Changes dated May 21, 1973 issued against petitioner, Irving Minkin, was due to his negligence or intentional disregard of Articles 22 and 23 of the Tax Law or regulations thereunder and therefore the penalty assessed against him pursuant to section 685(b) of the Tax Law for the years 1968 and 1969 in the total sum of \$163.11 is waived.

D. That the petition of Irving Minkin is granted to the extent of cancelling the penalty imposed pursuant to section 685(b) of the Tax Law in the sum of \$163.11 and, that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York  
December 23, 1975

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

AD 32 (8-74) 50M

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227

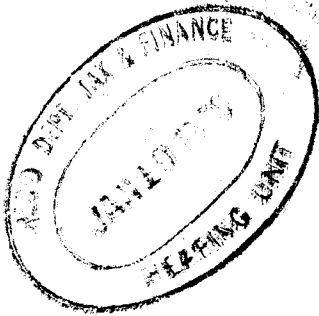
Mr. Irving Minkin

3697 Libby Lane

Wantagh, New York

21503

Q-1-11



Name                       
1st Notice 1-3-3  
2nd Notice 1-3-3  
Return 1-11



*Robert H. [Signature]*  
1-15-68



STATE OF NEW YORK  
STATE TAX COMMISSION

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State of New York  
County of Albany

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known address of the ~~(representative of the)~~ petitioner.

Sworn to before me this

20th day of January, 1976.

Janet Mack

Mary Groff