

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
GEORGE L. ROBBINS

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, 1965, :
1966 and 1967.

State of New York
County of Albany

Katherine D. Manly, 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 4th day of March, 1975, she served the within
Notice of Decision ~~(for Determination)~~ by (certified) mail upon George L.
Robbins ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. George L. Robbins
420 East 23rd Street
New York, New York 10010

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)~~
~~xxx~~ 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

4th day of March, 1975.

Janet Mack

Katherine D. Manly

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE L. ROBBINS

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, 1965, :
1966 and 1967.

State of New York
County of Albany

Katherine D. Manly, 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 4th day of March, 1975, she served the within
Notice of Decision (~~on Determination~~) by (certified) mail upon Bernard
Wolf, 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: Bernard Wolf, P.A.
1435 Broadway
New York, 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) 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

4th day of March, 1975.

Janet Mack

Katherine D. Manly



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
March 4, 1973

Mr. George L. Robbins
420 East 23rd Street
New York, New York 10010

Dear Mr. Robbins:

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

Please take further notice that pursuant to
Section(s) **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 E. 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
GEORGE L. ROBBINS
for Redetermination of Deficiency or
for Refund of Unincorporated Business
Tax under Article 23 of the Tax Law
for the Years 1964, 1965, 1966 and
1967.

DECISION

Petitioner, George L. Robbins, 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, 1965, 1966 and 1967. (File No. 74432508). 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 January 24, 1975, at 10:30 A.M. Petitioner appeared by Bernard Wolf, P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James A. Scott, Esq., of counsel).

ISSUE

Did petitioner, George L. Robbins' activities as a ladies wear salesman during the years 1964, 1965, 1966 and 1967 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, George L. Robbins, filed New York State income tax resident returns for the years 1964, 1965, 1966 and 1967. He did not file New York State unincorporated business tax returns for said years.

2. On July 27, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, George L. Robbins, imposing unincorporated business tax in the total sum of \$1,010.25 upon the income received by him from his activities as a salesman during the years 1964, 1965, 1966 and 1967. It also imposed additional personal tax for the year 1964 in the sum of \$86.07 as a result of a Federal audit, which item is not being contested by him. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,338.93.

3. Petitioner, George L. Robbins, was a ladies wear salesman during the years 1964, 1965, 1966 and 1967. He represented two unaffiliated firms in the sale of said merchandise. The items sold for each firm were noncompetitive. He did not have any employees.

4. During the years 1964, 1965, 1966 and 1967, the firms for whom petitioner, George L. Robbins, sold ladies wear did not withhold Federal or New York State income taxes or social security tax from the commissions paid to him. They did not

reimburse him 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. He reported his commission income as "business income" on his New York State 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, George L. Robbins, from the two firms that he represented during the years 1964, 1965, 1966 and 1967 constituted income from his regular business of selling ladies wear 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.

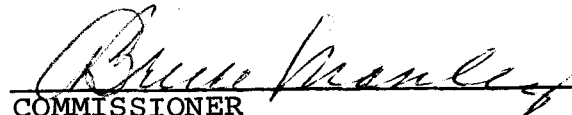
B. That the aforesaid activities of petitioner, George L. Robbins, during the years 1964, 1965, 1966 and 1967 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

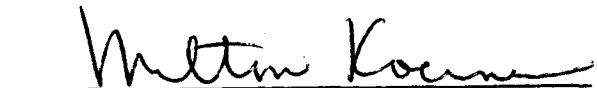
C. That the petition of George L. Robbins is denied and the Notice of Deficiency issued July 27, 1970, is sustained.

DATED: Albany, New York
February 27, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER