

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WALTER WOLFF

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)~~ 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 29th day of May , 1975 , she served the within
Notice of Decision ~~(s)~~ by (certified) mail upon Walter Wolff

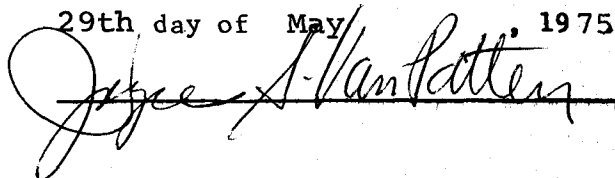
~~(s)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Walter Wolff
514 East Beech Street
Long Beach, New York 11561

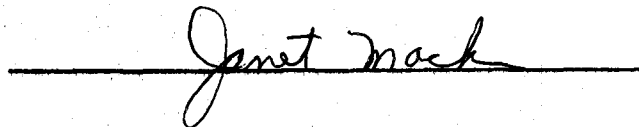
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the ~~(s)~~
~~(s)~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~(s)~~ petitioner.

Sworn to before me this

29th day of May , 1975





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WALTER WOLFF

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article (23) of the
Tax Law for the Year (1970)

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

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 29th day of May, 1975, she served the within
Notice of Decision (~~ex Determination~~) by (certified) mail upon Albert Shlom, Esq.

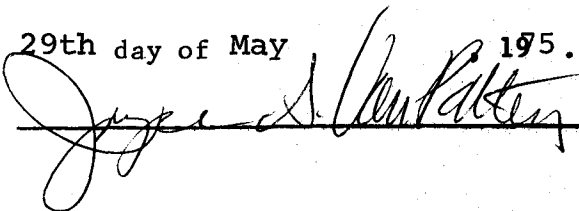
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Albert Shlom, Esq.
370 Lexington Avenue
New York, New York 10017

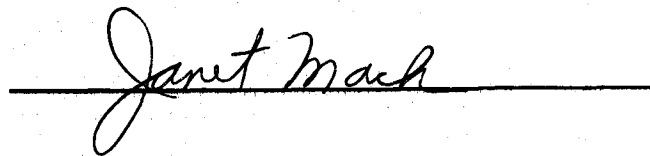
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

29th day of May 1975.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
James H. Tully, Jr.
~~XXXXXXXXXXXX~~ 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
May 29, 1975

Mr. Walter Wolff
514 East Beech Street
Long Beach, New York 11561

Dear Mr. Wolff:

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

Please take further notice that pursuant to
Section **(b) 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	:	
WALTER WOLFF	:	
for Redetermination of Deficiency or	:	DECISION
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Year 1970.	:	

Petitioner, Walter Wolff, residing at 514 East Beech Street, Long Beach, 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 year 1970. (File No. 0-58697502.) 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 October 4, 1974, at 9:00 A.M. Petitioner appeared by Albert Shlom, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUE

Did petitioner, Walter Wolff's activities as a framing products salesman during the year 1970 constitute the carrying on of an unincorporated business.

FINDINGS OF FACT

1. Petitioner, Walter Wolff, and his wife filed a New York State combined income tax return for the year 1970. He did not file a New York State unincorporated business tax return for said year.

2. On November 27, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Walter Wolff, imposing unincorporated business tax in the sum of \$759.95 upon the income received by him from his activities as a salesman during the year 1970. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$833.64.

3. Petitioner, Walter Wolff, was a framing products salesman during the year 1970. He represented two unaffiliated firms in the sale of framing products. The items sold for each firm were noncompetitive. He generally sold the products of the two firms to the same customers. He did not have any employees. He did not maintain his own office.

4. During the year 1970, the firms for whom petitioner, Walter Wolff, sold merchandise did not withhold Federal and New York State income taxes from the commissions paid to him. One of the firms withheld social security tax and covered him for

unemployment, workmen's compensation, disability and hospitalization insurance. He reimbursed the company for the cost of the hospitalization insurance. The other firm did not cover him for the aforesaid items. He was not reimbursed for any of his business expenses. The firms for whom he sold merchandise did not exercise any substantial supervision 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.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Walter Wolff, from the firms that he represented during the year 1970 constituted income from his regular business of selling framing products 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.

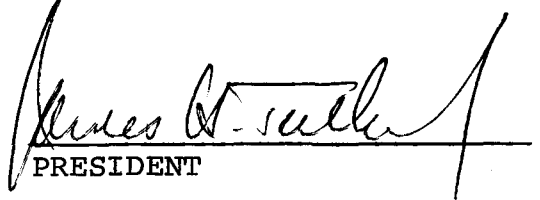
B. That the aforesaid activities of petitioner, Walter Wolff, during the year 1970 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

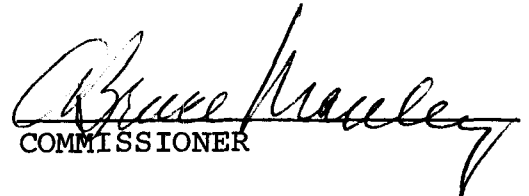
C. That the petition of Walter Wolff is denied and the
Notice of Deficiency issued November 27, 1972, is sustained.

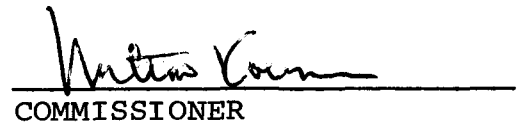
DATED: Albany, New York

May 29, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER