

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HARRY HASKELL

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article(s) 23 of the :  
Tax Law for the Year(s) ~~xxxPeriod(s)~~ :  
1968, 1969 and 1970.

State of New York  
County of Albany

Catherine Steele, 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 10th day of November, 1976, she served the within Notice of Decision by (certified) mail upon Harry Haskell ~~(representative of the)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Harry Haskell  
401 First Avenue  
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 Postal Service within the State of New York.

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

10th day of November, 1976

Janet Mack

Catherine Steele

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HARRY HASKELL

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article ~~(x)~~ 23 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
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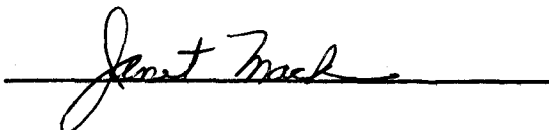
State of New York  
County of Albany

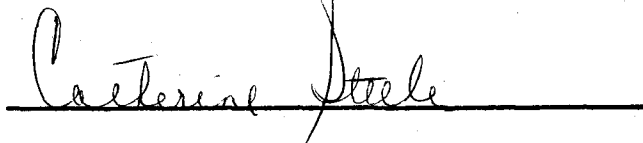
Catherine Steele, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 10th day of November, 1976, she served the within Notice of Decision by (certified) mail upon Charles Becker (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Charles Becker  
P.O. Box 1185  
Fort Lee, New Jersey 07024  
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 Postal Service within the State of New York.

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

10th day of November, 1976







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

November 10, 1976

TELEPHONE: (518) **457-3850**

Mr. Harry Haskell  
401 First Avenue  
New York, New York 10010

Dear Mr. Haskell:

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

Please take further notice that pursuant to  
Section(~~9~~) **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.

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. They  
will be referred to the proper party for reply.

Very truly yours,  
*Frank J. Puccia*

**Frank J. Puccia**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
HARRY HASKELL	:	DECISION
for a Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1968, 1969 and 1970.	:	

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Petitioner, Harry Haskell, 401 First Avenue, New York, New York, 10010, filed a petition for redetermination of a deficiency or for a refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1968, 1969 and 1970 (File No. 0-54637571).

A small claims hearing was held before Joseph Marcus, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, Room 65-31, 65th Floor, on Friday July 16, 1976 at 10:45 A.M. The petitioner was represented by Charles Becker. The Income Tax Bureau was represented by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Whether the petitioner's activities as a salesman during the years 1968, 1969 and 1970 constitutes the carrying on of an unincorporated business.

FINDINGS OF FACT

1. Petitioner, Harry Haskell, timely filed New York State income tax returns for the years 1968, 1969 and 1970 but did not file unincorporated business tax returns for those years.
2. On November 26, 1973, the Income Tax Bureau issued a Statement of Audit Changes against the petitioner, Harry Haskell, imposing unincorporated business tax upon the income received by him from his activities as a salesman during the years 1968, 1969 and 1970. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the amount of \$1,313.09 plus interest of \$272.52 for a total of \$1,585.61.
3. During the years at issue, petitioner was a salesman of fishing tackle and related equipment and represented six separate companies. Petitioner also worked for the U.S. Post Office on a part-time basis.
4. None of the companies exercised any direct control over petitioner's time nor was he restricted from selling to any of his accounts whatever merchandise he desired.
5. Two of the companies that petitioner represented reimbursed him for his expenses incurred while engaged as a salesman. The other four companies did not require him to submit an expense accounting.
6. Petitioner was paid as an independent contractor; neither payroll taxes, hospitalization nor any of the other usual employee deductions were deducted from petitioner's remuneration.

CONCLUSIONS OF LAW

A. That the income received by the petitioner during the years 1968, 1969 and 1970 from the firms he represented as a salesman constituted income from his regular business of selling fishing equipment and related items, and not compensation as an employee exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That the aforesaid activities of the petitioner during the years 1968, 1969 and 1970 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of Harry Haskell is denied and the Notice of Deficiency issued November 26, 1973 is sustained.

DATED: Albany, New York  
November 10, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER