

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SAMUEL J. and EVA J. LANDAU

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article ~~(a)~~ 23 of the :
Tax Law for the Year(s) ~~or Period(s)~~ :
1964 to 1966.

State of New York
County of Albany

Denise Burke , 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 November , 19 76, she served the within
Notice of Decision by (certified) mail upon Samuel J. and Eva J.
Landau ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Samuel J. and Eva J. Landau
605 Park Avenue
New York, 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 Postal Service within the State of New York.

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

23rd day of November , 1976

Denise Burke

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SAMUEL J. and EVA J. LANDAU

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article ~~(22)~~ 23 of the :
Tax Law for the Year(s) ~~or Period(s)~~ 1964 :
to 1966

State of New York
County of Albany

Denise Burke , 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 November , 19 76, she served the within
Notice of Decision by (certified) mail upon Meyer Galett, C.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: Meyer Galett, C.P.A.
Galett and Galett, C.P.A.s
515 Madison Avenue
New York, N.Y. 10022
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

23rd day of November , 19 76

Denise Burke

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

457-3850

TELEPHONE: (518)

November 23, 1976

**Samuel J. and Eva J. Landau
605 Park Avenue
New York, N.Y.**

Dear Mr. & Mrs. Landau:

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.

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,

**Paul B. Coburn
Supervising Tax
Hearing Officer**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
SAMUEL J. LANDAU and EVA J. LANDAU : DECISION
for Redetermination of a Deficiency or for :
Refund of Unincorporated Business Taxes :
under Article 23 of the Tax Law for the :
Years 1964 to 1966.

Petitioners, Samuel J. Landau and Eva J. Landau, residing at 605 Park Avenue, New York, New York have filed a petition for redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1964 to 1966. (File No. 0-0001313). A formal hearing was held before Julius E. Braun, Esq., Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on May 5, 1976 at 9:15 A.M. Petitioners appeared by Meyer Galett, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (William Fox, Esq. of Counsel).

ISSUE

Whether the salary income received by petitioner, Samuel J. Landau, from the S.J. Landau Corporation during the years 1964 to 1966 was subject to the New York State unincorporated business tax.

FINDINGS OF FACT

1. Petitioners Samuel J. Landau and Eva J. Landau filed New York State income tax returns for the years 1964 to 1966. They filed

unincorporated business tax returns for said years on the income received from Samuel Landau's real estate brokerage business.

2. On September 30, 1968 the Income Tax Bureau issued a Statement of Audit Changes against petitioners Samuel J. Landau and Eva J. Landau imposing unincorporated business tax for the years 1964 to 1966 on his salary income derived from his activities as a real estate broker. These activities were deemed to be related to his business income and accordingly a Notice of Deficiency in the sum of \$965.12 plus interest of \$129.14 for a total of \$1,094.26 was issued by the Income Tax Bureau.

3. Petitioner, Samuel J. Landau, during the years in issue was a licensed real estate broker and also the president and stockholder of the S.J. Landau Corporation, owning 70% of the stock. The S.J. Landau Corporation managed property and generally engaged in the real estate brokerage business. It had a number of employees. For his services, Samuel J. Landau received a salary from the corporation which withheld Federal and New York State income taxes and social security tax. He devoted approximately 40% of his time to the corporation, and 60% of his time to his own business, using the same facilities such as office telephone, secretary, files and desk space. Separate books, records, receipts, disbursements and bank accounts were kept. There was no substantial difference between the activities of the corporation and the activities of the unincorporated business.

CONCLUSIONS OF LAW

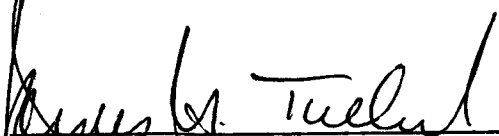
A. That the services rendered by petitioner, Samuel J. Landau, during the years 1964 to 1966 for the Samuel J. Landau Corporation were so intergrated and interrelated with his activities in connection


with his unincorporated real estate brokerage and realty management business as to constitute part of a business regularly carried on by him. Therefore, the salary received by him from said corporation was not exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

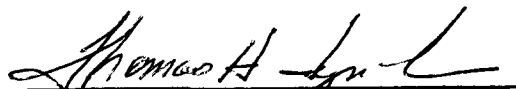
B. That the petition of Samuel J. Landau and Eva J. Landau is denied and the Notice of Deficiency issued September 30, 1968 is sustained.

DATED: Albany, New York
November 23, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER