

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ABRAHAM I. LAST

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) ~~1963 and 1964~~ :
1963 and 1964.

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 6th day of August, 1976, she served the within
Notice of Decision by (certified) mail upon Abraham I.

Last (Deceased) ~~representative of~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Abraham I. Last (Deceased)
c/o Bernard Last, Esq.
11 Atwood Drive
Plainview, New York 11803
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~~
~~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

6th day of August, 1976

Catherine Steele

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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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

August 6, 1976

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

Abraham I. Last (Deceased)
c/o Bernard Last, Esq.
11 Atwood Drive
Plainview, New York 11803

Dear Mr. Last:

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

Please take further notice that pursuant to
Section ~~65~~ **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	:	
	:	
ABRAHAM I. LAST	:	DECISION
	:	
for a Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law for	:	
the Years 1963 and 1964.	:	

Abraham I. Last, residing at 11 Atwood Drive, Plainview, New York 11803, filed a petition for the redetermination of a deficiency issued under date of August 21, 1967, in the amount of \$291.15 plus interest of \$53.17 for a total of \$344.32 for unincorporated business taxes under Article 23 of the Tax Law for the years 1963 and 1964.

A hearing was duly held before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 22, 1975. Bernard Last, Esq. represented the estate of Abraham I. Last. Saul Heckelman, Esq. (James A. Scott, Esq. of counsel) appeared for the Income Tax Bureau.

ISSUE

Whether the activities of petitioner constituted the carrying on of an unincorporated business.

FINDINGS OF FACT

1. Petitioner, Abraham I. Last, is a salesman who represented several hardware manufacturers in the New York metropolitan area; his primary duty was to solicit orders on behalf of his principals. There were no written contracts between petitioner and the manufacturers; Mr. Last was paid on a commission basis and was not reimbursed for expenses. The manufacturers fixed the territory that he was to cover.

2. Petitioner did not maintain an office nor did he have any employees. He had a telephone answering service in Manhattan, but he operated primarily from his home.

3. The State Tax Commission in 1965 rendered a decision that petitioner was not subject to unincorporated business taxes for the years 1957, 1958 and 1959.

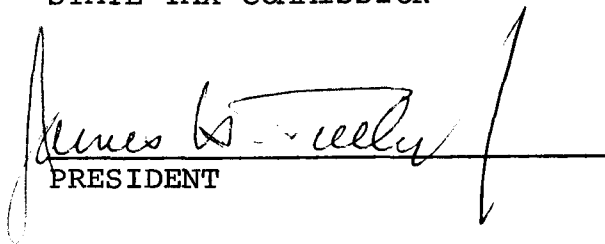
4. Petitioner, Abraham I. Last, died on Sept. 22, 1974.

CONCLUSIONS OF LAW

Petitioner, Abraham I. Last, was not an employee of his principals; the activities of petitioner constituted the carrying on of an unincorporated business. The Notice of Deficiency issued August 21, 1967, is correct; the petition is denied.

DATED: Albany, New York
August 6, 1976

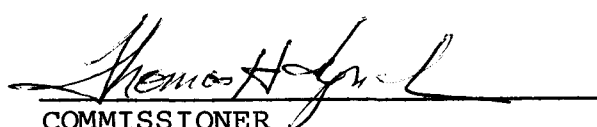
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER