

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CHARLES CRAMES

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)~~ 1966, :
1967, 1970, 1971 and 1972.

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
~~she~~ he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 12th day of May , 1977, ~~she~~ he served the within
Notice of Decision by (certified) mail upon Charles Cramers
~~(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 Cramers
71 Stevenson Street
Lynbrook, New York 11563

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

12th day of May , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CHARLES CRAMES

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article (23) 23 of the :
Tax Law for the Year(s) ~~or Period(s)~~ 1966, :
1967, 1970, 1971 and 1972.

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 12th day of May , 1977, he served the within
Notice of Decision by (certified) mail upon Bernard H. Romanoff

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Bernard H. Romanoff, Accountant
127-12 Cronston Avenue
Belle Harbor, New York 11694

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

12th day of May , 1977.

Bruce Batchelor

Janet Mack



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

May 12, 1977

TELEPHONE: (518) **457-1723**

Mr. Charles Cranes
71 Stevenson Street
Lynbrook, New York 11563

Dear Mr. Cranes:

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

Please take further notice that pursuant to
Section(3) **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

In the Matter of the Petition	:	
of	:	
CHARLES CRAMES	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1966, 1967, 1970, 1971	:	
and 1972.	:	

Petitioner, Charles Crames, residing at 71 Stevenson Street, Lynbrook, New York 11563, has 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 1966, 1967, 1970 1971 and 1972. (File No. 13654).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on March 8, 1977 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Bernard H. Romanoff, The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

ISSUE

Whether the income received by petitioner, Charles Crames, as a sales representative during the years 1966, 1967, 1970, 1971 and 1972 is subject to unincorporated business tax.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. During the years 1966, 1967, 1970, 1971 and 1972 petitioner was a sales representative for Wonderknit Corp. He did not represent other firms.

2. Petitioner was paid solely on a commission basis and received no other compensation from Wonderknit Corp.

3. In the course of his sales activities, petitioner participated in trade shows and, in connection therewith hired assistants to help him process new orders.

4. On several occasions, petitioner aided Wonderknit Corp. in the design of its product and serviced customers for which he received no commissions.

5. Petitioner was free to work for other noncompetitive firms, although he did not do so during the years at issue.

6. Wonderknit Corp. did not withhold Federal or New York State withholding taxes or social security tax from the commissions it paid to petitioner.

7. Petitioner was not reimbursed for expenses he incurred in connection with his sales activities and deducted said expenses on schedule "C" of his Federal income tax return. However, on the occasions that he traveled to Wonderknit Corp.'s mill, he was reimbursed for traveling expenses he incurred.

8. Although Wonderknit Corp. directed petitioner as to his sales territory, no evidence was presented to indicate that supervision or control were exerted on his sales activities.

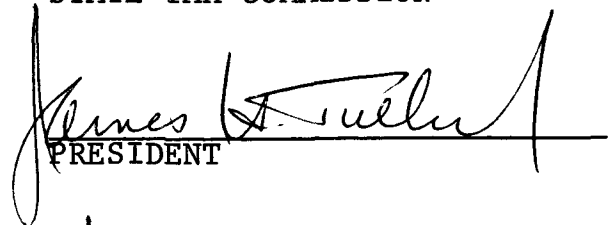
9. The income received by petitioner as a sales representative during the years 1966, 1967, 1970, 1971 and 1972 was earned from service rendered as an independent contractor and not as an employee.

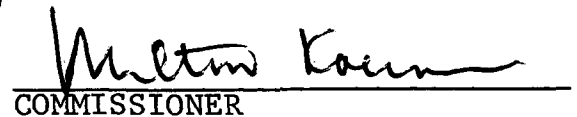
10. The income received by petitioner as a sales representative during the years 1966, 1967, 1970, 1971 and 1972 is subject to unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

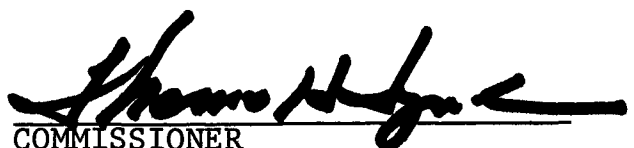
11. The petition of Charles Cramis is denied and the notices of deficiency issued on January 26, 1976 are sustained.

DATED: Albany, New York
May 12, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

100-44388-1

Wm. H. Miller