

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SAMUEL CRANE

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Tax Law for the Year(s) ~~xxx Repealed (x)~~ :  
1967, 1968, 1969, 1970 & 1971.

State of New York  
County of Albany

Bruce Batchelor, 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 4th day of March, 1977, she served the within  
Notice of Decision by (certified) mail upon Samuel Crane  
~~(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. Samuel Crane  
10 Continental Road  
Scarsdale, New York 10583  
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)~~  
~~xxx 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

4th day of March, 1977

Bruce Batchelor

Janet Truck

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SAMUEL CRANE

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) ~~xxx~~ ~~xxxx~~ ~~xxxx~~ :  
1967, 1968, 1969, 1970 & 1971.

State of New York  
County of Albany

Bruce Batchelor, 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 4th day of March, 19 77, she served the within  
Notice of Decision by (certified) mail upon Abraham A. Katz

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Abraham A. Katz, Esq.  
2 Mayflower Road  
Scarsdale, New York 10583

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

4th day of March, 19 77

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

March 4, 1977

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

Mr. Samuel Crane  
10 Continental Road  
Scarsdale, New York 10583

Dear Mr. Crane:

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

Please take further notice that pursuant to  
Section **(x)** **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**  
**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	:	
SAMUEL CRANE	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1967, 1968, 1969, 1970	:	
and 1971.	:	

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Petitioner, Samuel Crane, residing at 10 Continental Road, Scarsdale, New York 10583, has filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1967, 1968, 1969, 1970 and 1971 (File No. 7-78661578).

A small claims hearing was held before Joseph Marcus, Hearing Officer, on September 17, 1976 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and by Abraham A. Katz, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

ISSUE

Whether income received by petitioner, Samuel Crane, from his selling activities during the years 1967, 1968, 1969, 1970 and 1971 is subject to the unincorporated business tax.

FINDINGS OF FACT

1. Petitioner, Samuel Crane, filed New York State combined income tax returns for the years 1967, 1968, 1969, 1970, and 1971. He did not file New York State unincorporated business tax returns for the years in question.

2. On June 30, 1975, the Income Tax Bureau issued statements of audit changes against petitioner imposing unincorporated business tax upon the income received by him from his activities as a salesman during the years 1967, 1968, 1969, 1970 and 1971. In accordance with the aforementioned statements of audit changes, it issued Notices of Deficiency covering said years.

3. During the years under review petitioner was a dress salesman. He represented several unaffiliated firms as a salesman. The items sold by him for each firm were non-competitive. He was not a stockholder, director or officer of, nor did he have a financial interest in any of the firms he represented.

4. During the years 1967, 1968 and 1969, only one of the firms for whom petitioner sold dresses withheld Federal and New York State income taxes and social security taxes from the commissions paid to him. He was not reimbursed for any of his business expenses. He deducted these expenses from his Federal income tax returns. The firms for whom he sold dresses did not

exercise any control or supervision over his sales activities or techniques or to the time he devoted to sales, except to limit the territory in which he could sell.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Samuel Crane, from the firms he represented during the years 1967, 1968, 1969, 1970 and 1971, constituted income from his regular business of selling dresses 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 petitioner, Samuel Crane, 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 Samuel Crane is denied and the Notices of Deficiency are sustained.

DATED: Albany, New York  
March 4, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER