

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

PAUL and FRANCES GOLDSTEIN

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article (ss) 23 of the :  
Tax Law for the Year(s) ~~or Part(s)~~ :  
1967, 1968 and 1969.

AFFIDAVIT OF MAILING

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 26th day of April , 1977, ~~she~~ served the within  
Notice of Decision by (certified) mail upon Paul & Frances Goldstein

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

Mr. & Mrs. Paul Goldstein  
59 River Drive  
Marlboro, New Jersey 07746

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

26th day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

PAUL and FRANCES GOLDSTEIN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Unincorporated Business :  
Taxes under Article (ss) 23 of the :  
Tax Law for the Year(s) ~~1967, 1968 and 1969~~ :  
1967, 1968 and 1969.

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 26th day of April , 1977, he served the within  
Notice of Decision by (certified) mail upon William I. Broder  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: William I. Broder, CPA  
71 North Main Street  
Freeport, New York 11520  
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

26th day of April , 1977.

Bruce Batchelor

Janet Macf



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

April 26, 1977

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

Mr. & Mrs. Paul Goldstein  
59 River Drive  
Marlboro, New Jersey 07746

Dear Mr. & Mrs. Goldstein:

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

Please take further notice that pursuant to  
Section(§) **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. Puccio*

**Frank J. Puccio**  
**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	:	
PAUL AND FRANCES GOLDSTEIN	:	
for Redetermination of Deficiency or for	:	DECISION
Refund of Unincorporated Business Taxes	:	
under Article 23 of the Tax Law for the	:	
Years 1967, 1968 and 1969.	:	

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Petitioners, Paul and Frances Goldstein, residing at 59 River Drive, Marlboro, New Jersey 07746, have filed a petition for redetermination of deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1967, 1968 and 1969. (File No. 9-34968565). A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 16, 1976 at 2:45 P.M. Petitioner, Paul Goldstein, appeared pro se and for his wife, and by William Broder, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

ISSUE

Did the selling activities of petitioner, Paul Goldstein, during the years 1967, 1968 and 1969 constitute the carrying on

of an unincorporated business and, if so, should the income so derived be allocated as to days worked within and without New York State?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Paul Goldstein, was a commission salesman performing services for seven principals, four of which were related companies, during the years 1967, 1968 and 1969. His selling activities were performed outside of New York State for 10 weeks during each of said years.

2. The principals did not withhold any New York State or Federal taxes from compensation paid to petitioner, Paul Goldstein, except for the year 1967 when one principal withheld taxes and social security from his earnings.

3. Petitioner, Paul Goldstein, was not reimbursed by his principals for any expenses he incurred. He claimed these expenses on Federal schedule C.

4. Petitioner, Paul Goldstein, was required to purchase the samples he used from his principals. He paid a part of the advertising costs of his customers from his own funds. He had cards printed which advised customers when he would be in their area and whose products he was representing.

5. The only control over petitioner, Paul Goldstein's selling activities was the limiting of his sales territory. He was not prevented from selling noncompeting products for other principals. He was not provided with office space by any principal. He had no office outside of New York State.

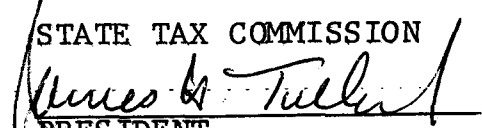
6. Petitioners, Paul and Frances Goldstein, were residents of New York State all of 1967 and 1968. In late November of 1969, petitioners moved to New Jersey. They filed their New York State personal income tax return for 1969 as full year residents, including all income and deductions without proration. Petitioner, Paul Goldstein, did not work outside of New York State during his 1969 nonresident period.

7. That the selling activities of petitioner, Paul Goldstein, during the years 1967, 1968 and 1969 constituted the carrying on of an unincorporated business in accordance with the meaning and intent of section 703 of the Tax Law.

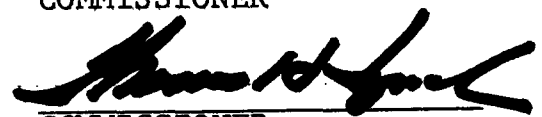
8. That the income derived from petitioner, Paul Goldstein's business activities during the years 1967, 1968 and 1969 are subject to the unincorporated business tax without allocation in accordance with the meaning and intent of section 707(a) of the Tax Law.

9. That the petition of Paul and Frances Goldstein is denied and the Notice of Deficiency in the amount of \$3,302.68 issued February 26, 1973 is sustained.

DATED: Albany, New York  
April 26, 1977

STATE TAX COMMISSION  
  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

*[Handwritten signature]*