STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JEROME HARRIS

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(x)~~ 1968, 1969 and 1970.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that ~~he~~ she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 10th day of January, 1977, ~~he~~ she served the within Notice of Decision by (certified) mail upon Jerome Harris (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Jerome Harris
2958 Avenue Z
Brooklyn, New York 11235

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
10th day of January, 1977.

Bruce Batchelor

Janet Mack

TA-3 (2/76)

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JEROME HARRIS

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) ~~Period(s)~~ 1968, 1969 and 1970.

AFFIDAVIT OF MAILING

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 10th day of January, 19 77, ~~she~~ he served the within Notice of Decision by (certified) mail upon Richard A. Reitman, CPA (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Richard A. Reitman, CPA
8 West 40th Street
New York, New York 10018

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
10th day of January, 1977.

Bruce Batchelor

Janet Mack

TA-3 (2/76)

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

TELEPHONE: (518) 457-1723

January 10, 1977

Mr. Jerome Harris
2958 Avenue Z
Brooklyn, New York 11235

Dear Mr. Harris:

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

Please take further notice that pursuant to Section(s) 722 of the Tax Law, any proceeding in court to review an adverse decision 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. Pucia

Frank J. Pucia
Supervisor of
Small Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

TA-1.12 (1/76)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
JEROME HARRIS	:	DECISION
for a Redetermination of a Deficiency or for Refund of Unincorporated Business Taxes under Article 23 of the Tax Law for the Years 1968, 1969 and 1970.	:	

Petitioner, Jerome Harris, residing at 2958 Avenue Z, Brooklyn, New York, has filed a petition for a redetermination of a deficiency or for refund of unincorporated business taxes for the years 1968, 1969 and 1970 under Article 23 of the Tax Law. (File No. 0-58829355).

A small claims hearing was held before Joseph Marcus, Hearing Officer, at the offices of the State Tax Commission, Department of Taxation and Finance, Two World Trade Center, Room 65-31, 65th Floor, New York, New York, on Tuesday, August 17, 1976 at 9:15 A.M. The petitioner was represented by Richard A. Reitman, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Paul Rosenkrantz, Esq. of counsel).

ISSUE

Was income derived from petitioner's activities as a salesman subject to the unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Jerome Harris, timely filed New York State income tax returns for the years 1968, 1969 and 1970. He did not file unincorporated business tax returns for years in question. On May 19, 1975, the Income Tax Bureau issued a Statement of Audit Changes against the petitioner, Jerome Harris, imposing unincorporated business tax upon the income received by him from his activities

as a salesman during the years 1968, 1969 and 1970. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency under the same date in the amount of $1,014.49 plus interest of $276.06 for a total of $1,290.55.

2. During the year at issue the petitioner earned income as a salesperson for two unrelated corporations. He sold slacks for West Point Slacks Co., Inc. and belts for Bond Street Suspender & Belt Corporation.

3. Petitioner stated that his time was divided between the two companies based on an understanding that he devote three days each week to the West Point Company and two days to the Bond Street Corporation. There was no formal contract of employment with either company.

4. In 1968, Bond Street Corporation provided petitioner with a withholding tax statement; petitioner did not receive any other withholding tax statement in 1968 or the following two years from any of the firms with which he was connected.

5. West Point Slacks Co., Inc. provided the petitioner with an automobile but did not reimburse him for any other expenses petitioner incurred in connection with his selling activities.

6. Bond Street Corporation similarly did not reimburse petitioner for expenses.

7. Petitioner was not covered by the aforementioned firms by any pension plan.

8. Petitioner stated that the firms exercised control over his activities by requiring him to be in the companies' showrooms when he was not engaged in outside selling activities.

9. A statement by the president of West Point Slacks Co. Inc., Jack Cohen, indicated that the petitioner's "duties were supervised jointly" by West Point and Bond Street. It was further stated that West Point Company questioned and supervised the daily activities of the petitioner as to which accounts the petitioner sold, what hours he worked and what territories he covered on any particular day. Vacations and days off were under the control of West Point Company and/or Bond Street Corporation.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Jerome Harris, from the firms he represented during the years 1968, 1969 and 1970, constituted income from his activities as an employee 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 Jerome Harris is granted and the Notice of Deficiency issued May 19, 1975 is cancelled.

DATED: Albany, New York
January 10, 1977

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JEROME HARRIS

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) ~~or Period(s)~~ 1968, 1969 and 1970

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that ~~s~~he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 9th day of February, 1977, ~~s~~he served the within Notice of Decision by (certified) mail upon Jerome Harris (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Jerome Harris
34-15 Parsons Boulevard
Flushing, NY 11354

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
9th day of February, 1977.

Bruce Batchelor

Janet Mack

TA-3 (2/76)

SMALL CLAIMS

TA-26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

RETURNED TO WRITER

REASON CHECKED
Unclaimed ✓ Refused
Moved, left ...
No such number
...ed, not forwardable
...ssee unknown

Mr. Jerome Harris
2958 Avenue Z
Brooklyn, New York 11235

FINAL NOTICE 1-18 1-28

CERTIFIED
No. 400069
MAIL

NHMU
1-13-79
PHR

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

TELEPHONE: (518) 457-1723

January 10, 1977

REMAILED: February 9, 1977

Mr. Jerome Harris
2958 Avenue Z
Brooklyn, New York 11235

Dear Mr. Harris:

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

Please take further notice that pursuant to Section(s) 722 of the Tax Law, any proceeding in court to review an adverse decision 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:

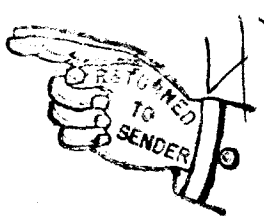
Taxing Bureau's Representative:

TA-1.12 (1/76)

SMALL CLAIMS

TA-26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227



UNCLAIMED

Mr. Jerome Harris
34-15 Parsons Boulevard
Flushing, NY 11354

LMR
Hearing 7/11/77

TAB

CERTIFIED
No. 401267
MAIL

NAME _____
1st Notice _____ 2/17
2no Notice _____ 2/26
Return _____ 2/26

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
JEROME HARRIS	:	DECISION
for a Redetermination of a Deficiency or for Refund of Unincorporated Business Taxes under Article 23 of the Tax Law for the Years 1968, 1969 and 1970.	:	

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ISSUE

Was income derived from petitioner's activities as a salesman subject to the unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Jerome Harris, timely filed New York State income tax returns for the years 1968, 1969 and 1970. He did not file unincorporated business tax returns for years in question. On May 19, 1975, the Income Tax Bureau issued a Statement of Audit Changes against the petitioner, Jerome Harris, imposing unincorporated business tax upon the income received by him from his activities

as a salesman during the years 1968, 1969 and 1970. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency under the same date in the amount of $1,014.49 plus interest of $276.06 for a total of $1,290.55.

2. During the year at issue the petitioner earned income as a salesperson for two unrelated corporations. He sold slacks for West Point Slacks Co., Inc. and belts for Bond Street Suspender & Belt Corporation.

3. Petitioner stated that his time was divided between the two companies based on an understanding that he devote three days each week to the West Point Company and two days to the Bond Street Corporation. There was no formal contract of employment with either company.

4. In 1968, Bond Street Corporation provided petitioner with a withholding tax statement; petitioner did not receive any other withholding tax statement in 1968 or the following two years from any of the firms with which he was connected.

5. West Point Slacks Co., Inc. provided the petitioner with an automobile but did not reimburse him for any other expenses petitioner incurred in connection with his selling activities.

6. Bond Street Corporation similarly did not reimburse petitioner for expenses.

7. Petitioner was not covered by the aforementioned firms by any pension plan.

8. Petitioner stated that the firms exercised control over his activities by requiring him to be in the companies' showrooms when he was not engaged in outside selling activities.

9. A statement by the president of West Point Slacks Co. Inc., Jack Cohen, indicated that the petitioner's "duties were supervised jointly" by West Point and Bond Street. It was further stated that West Point Company questioned and supervised the daily activities of the petitioner as to which accounts the petitioner sold, what hours he worked and what territories he covered on any particular day. Vacations and days off were under the control of West Point Company and/or Bond Street Corporation.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Jerome Harris, from the [redacted] he represented during the years 1968, 1969 and 1970, constituted income from his activities as an employee 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 Jerome Harris is granted and the Notice of Deficiency issued May 19, 1975 is cancelled.

DATED: Albany, New York
January 10, 1977

STATE TAX COMMISSION

James H. Tucker
PRESIDENT

Milton Koerner
COMMISSIONER

Thomas H. Lynch
COMMISSIONER

3. A statement by the president of West Point Trades Co. Ltd., [illegible] indicates that the corporation's affairs were supervised [illegible] by West Point and Local Executive. It was further stated that West Point Company questioned and approved the daily activities of the corporation as to [illegible] accounts the particular sale. What hours he worked and [illegible] covered on any particular day. Vouchers and bills of sale were under the control of West Point Company and/or Local Executive Committee.

CONCLUSION OF LAW

A. That the income received by [illegible], Jenkins Gerald, from the firm he represented during the years 1955, 1956 and 1957, constituted income from his activities as an employee and from the [illegible] of the [illegible] business, but in accordance with the wording and intent of section [illegible] [illegible] taxable.

B. That the [illegible] of income taxes in question and the [illegible] [illegible] by issue [illegible] 18, 1971 is sustained.

DATED: Albany, New York
[illegible] 1971

COMMISSIONER OF INCOME TAXES

PRESIDENT

MEMBER

MEMBER