

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MAXIM H. HUNZIKER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article (5) 23 of the :
Tax Law for the Year (~~1970~~) 1970. :

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that

~~that~~ he is an employee of the Department of Taxation and Finance, over 18 years of

age, and that on the 4th day of March, 1977, ~~he~~ served the within

Notice of Decision by (certified) mail upon Maxim H. Hunziker

(~~representative of~~) the petitioner in the within proceeding,

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

as follows: Mr. Maxim H. Hunziker
166 East 61 Street
New York, New York 10022

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~~)
~~XXXX~~ 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

Spit Mack



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

March 4, 1977

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

Mr. Maxim H. Hunziker
166 East 61 Street
New York, New York 10022

Dear Mr. Hunziker:

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

In the Matter of the Petition	:	
of	:	
MAXIM H. HUNZIKER	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Year 1970.	:	

Petitioner, Maxim H. Hunziker, residing at 166 East 61 Street, New York, New York 10022, 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 year 1970 (File No. 0-56757924).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on August 23, 1976 at 9:15 a.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner, Maxim H. Hunziker, appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq. of counsel).

ISSUE

Whether petitioner, Maxim H. Hunziker's business activities as a sales representative constitute the carrying on of a business subject to the unincorporated business tax.

FINDINGS OF FACT

1. Petitioner, Maxim H. Hunziker, and his wife filed a New York State income tax return for the year 1970. He did not file a New York State unincorporated business tax return for said year.

2. On October 11, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Maxim H. Hunziker, asserting that the petitioner's activities as a salesman during the year 1970 were subject to unincorporated business tax. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$272.28.

3. During the year 1970, petitioner, Maxim H. Hunziker, sold costume jewelry and handbags for twelve firms. The firms for whom he sold did not withhold Federal or New York State income taxes or social security tax from the commissions paid to him. He was not reimbursed for expenses incurred in connection with his selling activities. The firms for whom he sold did not exercise any substantial control or supervision over his sales activities or techniques or over the time he devoted to sales.

CONCLUSIONS OF LAW

A. That the income received by petitioner, Maxim H. Hunziker, from the firms he represented during the year 1970 constituted income from his regular business of selling

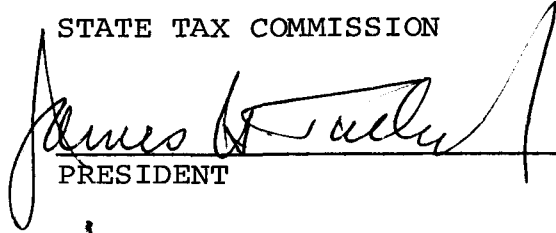
merchandise as an independent contractor and not as an employee exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of section 703(f) of the Tax Law.

B. That the aforesaid activities of petitioner, Maxim H. Hunziker, during the year 1970 constituted the carrying on of an unincorporated business and his income derived therefrom is subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

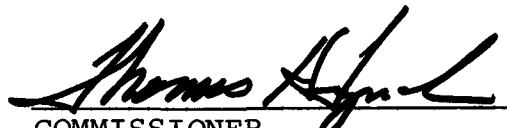
C. That the petition of Maxim H. Hunziker is denied and the Notice of Deficiency dated June 30, 1973 is sustained.

DATED: Albany, New York
March 4, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER