

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH KOROT and MILDRED KOROT

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)~~ :
1967, 1969 and 1970

AFFIDAVIT OF MAILING

State of New York
County of Albany

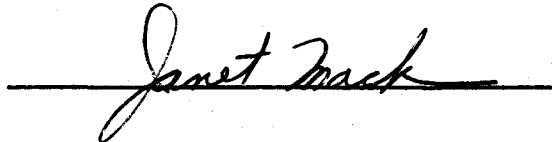
Marsina Donnini, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 22 day of July, 1977, she served the within Notice of Decision by (certified) mail upon Joseph and Mildred Korot ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Joseph Korot
3030 Ocean Avenue
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

22 day of July, 1977.


Marsina Donnini


Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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16 Court Street
Brooklyn, New York 11241

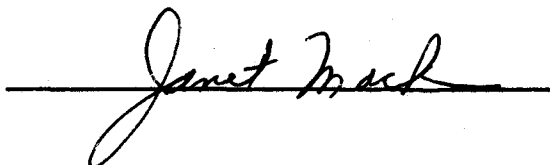
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That deponent further says that the said addressee is the (representative of the) petitioner herein and that the address set forth on said wrapper is the last known address of the (representative of the) petitioner.

Sworn to before me this

22 day of July, 1977.







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

July 22, 1977

**Mr. & Mrs. Joseph Korot
3030 Ocean Avenue
Brooklyn, New York 11235**

Dear Mr. & Mrs. Korot:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **722** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


**Joseph Chyrywat
Hearing Examiner**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
Joseph Korot and Mildred Korot	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Taxes	:	
under Article 23 of the Tax Law for the Years	:	
1967, 1969 and 1970.	:	

Petitioners, Joseph Korot and Mildred Korot, residing at 3030 Ocean Avenue, Brooklyn, New York, 11235, have 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 1967, 1969 and 1970 (File Nos. 11532 and 14500).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on November 15, 1976 at 1:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Samuel Korot, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

ISSUE

Whether the income received by petitioner, Joseph Korot, as a sales representative during the years 1967, 1969 and 1970 is subject to unincorporated business tax.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Joseph Korot, was a sales representative for several textile firms during the years of 1967, 1969 and 1970.

2. With the exception of American Lace Mills, Inc., from which petitioner, Joseph Korot, derived a small percentage of his income, none of the firms for whom petitioner sold withheld Federal or New York State income taxes or social security tax.

3. Petitioner, Joseph Korot, was not reimbursed by any of the firms for whom he sold for the expenses he incurred in connection with his selling activities.

4. No evidence was submitted to indicate that the firms for whom petitioner, Joseph Korot, sold exercised any supervision or control over his selling activities.

5. Petitioner, Joseph Korot, maintained an office at his home in Brooklyn, New York.

6. Petitioner, Joseph Korot, contends that the income he earned as a sales representative was earned from sources without New York State, since he worked from the premises of Rintex Corporation which is located in New Jersey and he sold predominately in New Jersey.

7. The income received by petitioner, Joseph Korot, during the years 1967, 1969 and 1970 was earned from services rendered as a independent contractor and not as an employee.

8. The income petitioner, Joseph Korot, received as a sales representative during the years 1967, 1969 and 1970 is subject to unincorporated business tax within the meaning and intent of section 703 of the Tax Law.

9. Petitioner, Joseph Korot, has not sustained the burden of proof necessary to substantiate that he maintained a regular place of business in New Jersey in accordance with the meaning and intent of section 707(a) of the Tax Law and is, therefore, not entitled to allocate his income as to sources within and without New York State.

10. That petitioner, Joseph Korot's income is deemed to be entirely from New York sources as he did not maintain a regular place of business outside of New York, in accordance with the meaning and intent of section 707(a) of the Tax Law.

11. The petitions of Joseph Korot and Mildred Korot are denied and the notices of deficiency issued against them on June 26, 1972 and December 22, 1975 in the sums of \$1,274.99 and \$1,093.53, respectively, are sustained.

DATED: Albany, New York
July 22, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

TA-36 (9/76)

State of New York - Department of Taxation and Finance
Tax Appeals BureauREQUEST FOR BETTER ADDRESS

Requested by <i>May Loff</i>	Unit <i>Tax Appeals Bureau Room 107, Bldg 9</i>	Date of Request <i>8/9/77</i>
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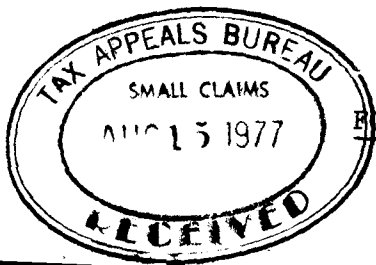
Please find most recent address of taxpayer described below; return to person named above.

Social Security Number <i>14-133-18-4280</i> <i>W-065-30-3876</i>	Date of Petition <i>76/02/18 + 72/08/25</i>
Name <i>Joseph and Mildred West</i>	
Address <i>3030 Ocean Avenue</i> <i>Brooklyn, New York 11235</i>	

Results of search by Files

<input type="checkbox"/> New address:	
<input type="checkbox"/> Same as above, no better address	
<input checked="" type="checkbox"/> Other:	<i>076#</i> <i>075#</i> <i>074#</i> <i>073#</i>

Searched by <i>M. L. Leger</i> <i>H. Brodbeck</i>	Section <i>Master Index</i> <i>m d.</i>	Date of Search <i>9/1/77</i> <i>8-11-77</i>
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PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
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Sincerely,

Joseph Chyrywaty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

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

N/T
F.A.B.
N/S
No such name

Mr. & Mrs. Joseph Korot
3030 Ocean Avenue
Brooklyn, New York 11235

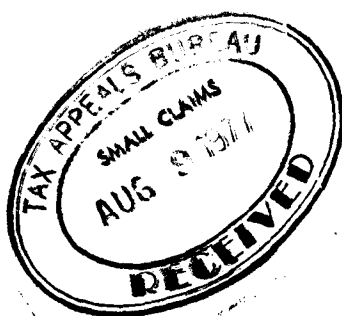
RETURNED TO
REASON
Unclaimed
Address not forwardable
Addressee unknown

CERTIFIED
No. 402452
MAIL



86 FEB

A2



8/9/77

STATE OF NEW YORK

STATE TAX COMMISSION

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