

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELIEZER KRIGER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article ~~(8)~~ 23 of the :
Tax Law for the Year ~~(80) XXX XXXXX (81)~~ :
1972

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 30th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Eliezer Kriger
~~(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. Eliezer Kriger
784 Remsen Avenue
Brooklyn, New York 11236
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)~~
~~XXXXXX~~ 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

30th day of June, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELIEZER KRIGER

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 (XXXXXX) Period(s) :
1972

State of New York
County of Albany

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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 30th day of June, 19 77, she served the within
Notice of Decision by (certified) mail upon Sidney Deutsch, CPA
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Sidney Deutsch, CPA
526 E. St.
Brooklyn, New York 11218
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.

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Marsina Donnini

Janet 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

June 30, 1977

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

Mr. Elieser Kriger
784 Ramsen Avenue
Brooklyn, New York 11236

Dear Mr. Kriger:

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

Please take further notice that pursuant to
Section(2) **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	:	
ELIEZER KRIGER	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Year 1972.	:	

Petitioner, Eliezer Kriger, residing at 784 Remsen Avenue, Brooklyn, New York 11236, 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 1972 (File No. 12670).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on September 14, 1976 at 1:15 p.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Sidney Deutsch, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq. of counsel).

ISSUE

Whether the income from the petitioner's activities as a real estate manager and salesman is subject to the unincorporated business tax.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Eliezer Kriger, received gross income during 1972 of \$13,435.25, which represented management fees, commission income from the sale of securities, and commission income from his insurance brokerage activities.

2. The petitioner received \$9,400.00 as management fees for the managing of real property owned by his father. Commission income of \$1,542.79 was received from his activities as a securities salesman for Bentley Securities, Inc. Commission income of \$2,492.46 was conceded to have been received from his unincorporated business activities as an insurance broker.

3. None of the petitioner's gross income was subject to the withholding of payroll taxes, and none of his business expenses were reimbursed.

4. Self-employment taxes were paid by the petitioner, who did not participate in any employee related programs.

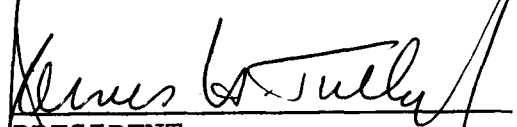
5. The petitioner has not sustained the burden of proof that sufficient direction and control were exercised by any of his principals, individually or collectively, to result in an employer-employee relationship. In addition, no clear division of time and effort between any of his activities was shown.

6. The petitioner's business activities are those of an unincorporated business subject to unincorporated business tax within the meaning and intent of section 703 of the Tax Law.

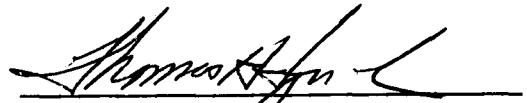
7. The petition of Eliezer Kriger is denied and Notice of Deficiency issued May 19, 1975 for \$367.13 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York
June 30, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

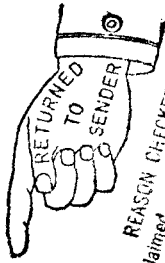

COMMISSIONER

TA-26 (4-76) 25M **SMALL CLAIMS**
STATE OF NEW YORK

Department of Taxation and Finance
TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227



REASON CHECKED
Unclaimed _____ Refused _____
Addressee unknown _____
Insufficient Address _____
No such street _____
No such office in state _____
Do not remain in this envelope _____

Mr. Eliezer Kriger
784 Remsen Avenue
Brooklyn, New York 11236

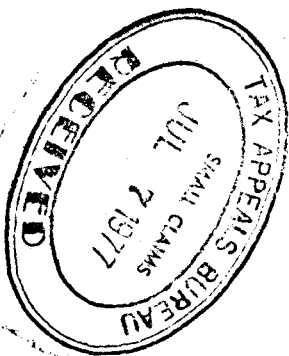
CERTIFIED

No. 402315

MAIL

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SERVING
AMERICA



7/4/77

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STATE TAX COMMISSION

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39 Albert Drive
Monsey, New York

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Sworn to before me this

29 day of July, 1977.

Marsina Donnini

Janet Mack