

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SAM LEZAK

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Unincorporated Business
Taxes under Article (a) 23 of the
Tax Law for the Year(s) ~~XXXXXX~~
1971 and 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 Sam Lezak
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Sam Lezak
160 Exeter Street
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)~~
~~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
SAM LEZAK

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article ~~(a)~~ 23 of the :
Tax Law for the Year(s) ~~XXXXXX~~ :
1971 and 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 Leonard Feffer, CPA
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Leonard Feffer, CPA
150 Nassau St.
New York, New York 10038
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

30th day of June, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

June 30, 1977

ADDRESS YOUR REPLY TO

TELEPHONE: (518) 457-1723

Mr. Sam Lesak
160 Exeter Street
Brooklyn, New York 11235

Dear Mr. Lesak:

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

Please take further notice that pursuant to
Section ~~720~~ **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	:	
	:	
SAM LEZAK	:	DECISION
	:	
for Redetermination of Deficiency or for	:	
Refund of Unincorporated Business Taxes	:	
under Article 23 of the Tax Law for the	:	
Years 1971 and 1972.	:	

Petitioner, Sam Lezak, residing at 160 Exeter Street, Brooklyn, New York 11235, filed a petition for redetermination of deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1971 and 1972. (File No. 12691). 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 February 24, 1977 at 10:45 A.M. Petitioner appeared by Leonard Feffer, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Francis Cosgrove, Esq., of counsel).

ISSUE

Was the gain which resulted from the installment sale of real property by petitioner, Sam Lezak, and received in the years 1971 and 1972, derived from the sale of an asset which was connected with an unincorporated business and therefore subject to the unincorporated business tax?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. For many years petitioner, Sam Lezak, owned a parcel of land located in Brooklyn, New York. He rented out one-half of the land and was engaged in an unincorporated business on the other half.

2. On his 1971 Federal tax return, petitioner included and intermingled rental income and rental expenses in schedule C as part of the income and deductions of his unincorporated business.

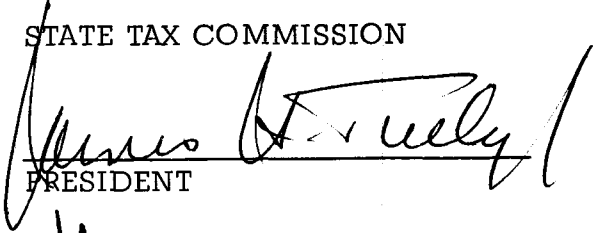
3. On April 16, 1971, petitioner changed the structure of his unincorporated business to that of a corporation of which he owned 80% of the stock. He leased the half of the land on which his business was situated to the corporation. Subsequently, in 1971, petitioner became the sole owner of the corporation and on December 23, 1971, he sold all the land including the rented portion to the Sephardic Home for the Aged for \$365,000.00.

4. That the entire parcel of land including the rented portion was connected with an unincorporated business engaged in by petitioner, Sam Lezak, and the gain derived from its sale was includable in unincorporated business gross income and subject to the unincorporated business tax in accordance with the meaning and intent of section 705(a) of the Tax Law.


5. That the petition of Sam Lezak is denied and the Notice of Deficiency for the years 1971 and 1972 in the amount of \$2,665.81 issued February 24, 1975 is sustained.

DATED: Albany, New York
June 30, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER