

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

STANLEY M. LIGHT

AFFIDAVIT OF MAILING

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) ~~xxx Period(s)~~ :  
1969, 1970 and 1973

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 Stanley M. Light

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

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

as follows: Mr. Stanley M. Light

450 Lakeville Lane

East Meadow, New York 11554

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~~  
~~xxxxxx~~ 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

In the Matter of the Petition

of  
STANLEY M. LIGHT

AFFIDAVIT OF MAILING

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)~~ :  
1969, 1970 and 1973

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 Edwin Shor, CPA

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Edwin Shor, CPA  
26 Court Street  
Brooklyn, New York 11242

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  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

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

**July 22, 1977**

**Mr. Stanley M. Light**  
**450 Lakeville Lane**  
**East Meadow, New York 11554**

**Dear Mr. Light:**

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 Chyrywaty**  
**Hearing Examiner**

cc: Petitioner's Representative

Taxing Bureau's Representative

## STATE TAX COMMISSION

for Redetermination of a Deficiency or for Refund  
of Unincorporated Business Taxes under Article 23  
of the Tax Law for the Years 1969, 1970 and 1973.

## DECISION

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on November 18, 1976 at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Edwin Shor, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (A. Schwartz, Esq., of counsel).

Whether the income derived from the petitioner's activities as a furniture salesman is subject to the unincorporated business tax.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Stanley M. Light, was a furniture salesman for Al Miller and Son, Inc. during the years 1969 and 1970, and for Praise Furniture Distributors, Inc., during 1973. In addition, he sold a non-competing line of lamps for Metropolitan Lamp Co., Inc.

2. Petitioner was regarded as an independent salesman by Al Miller and Son, Inc. They assigned him a specific territory, and required him to attend meetings and trade shows and to sell at their showroom. He was also required to pursue customer collections and complaints.

3. During 1973, Praise Furniture Distributors, Inc., required the petitioner to sell at their showroom, to attend furniture expositions, to pursue collections, and to adjust customer complaints.

4. Both principals permitted the petitioner to sell a non-competing line of lamps. The activities of selling these lamps were conducted simultaneously with the activities of selling the furniture.

5. Petitioner was paid on a commission basis, with no withholding of payroll taxes and no reimbursement of selling expenses.

6. Petitioner maintained a self-employed retirement plan (Keogh Plan) and paid self-employment taxes.

7. Although he was required to attend trade shows and expositions, the petitioner was also required to pay the expenses of attending these shows.

8. Petitioner conceded that the income derived from his selling activities for Metropolitan Lamp Co., Inc. is subject to the unincorporated business tax.

9. Petitioner did not file unincorporated business tax returns for the years 1969, 1970 and 1973 upon the advice of his accountant.

10. That the income of petitioner, Stanley M. Light, from the firms he represented during the years 1969, 1970, and 1973, constituted income from his regular business of selling and not compensation 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.

11. That the petition of Stanley M. Light is granted to the extent that the penalties imposed in accordance with sections 685(a)(1) and 685(a)(2) of the Tax Law for the years 1969 and 1970 are cancelled for reasonable cause.

12. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued October 29, 1973 for the years 1969 and 1970; and that the Notice of Deficiency issued September 29, 1975, for the year 1973 is sustained; and that, except as so granted, the petition of Stanley M. Light, is in all other respects denied.

DATED: Albany, New York  
July 22, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER