

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

J. BRITTON SELOVER

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)~~ :  
1967, 1968 and 1969.

State of New York  
County of Albany

Bruce Batchelor , 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 14th day of January , 1977, she served the within  
Notice of Decision by (certified) mail upon J. Britton Selover

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Mr. J. Britton Selover  
3110 Lake Heights Drive  
Hamburg, New York 14075

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

14th day of January , 1977.

Bruce Batchelor

Janet M. M. M.

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

J. BRITTON SELOVER

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(s) ~~or Period(s)~~ :  
1967, 1968 and 1969.

State of New York  
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that  
~~x~~he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 14th day of January , 1977, ~~x~~he served the within  
Notice of Decision by (certified) mail upon Harold M. Finger

(representative of) the petitioner in the within proceeding,

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

Mr. Harold M. Finger  
59 Buffalo Street  
Hamburg, New York 14075

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

14th day of January , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

January 14, 1977

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

Mr. J. Britton Selover  
3110 Lake Heights Drive  
Hamburg, New York 14075

Dear Mr. Selover:

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

Please take further notice that pursuant to  
Section ~~(s)~~ **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 :  
J. BRITTON SELOVER :  
for Redetermination of a Deficiency or :  
for Refund of Unincorporated Business :  
Taxes under Article 23 of the Tax Law :  
for the Years 1967, 1968 and 1969.

Petitioner, J. Britton Selover, residing at 3110 Lake Heights Drive, Hamburg, New York 14075, 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, 1968 and 1969. (File No. 9-44418225).

A small claims hearing was held September 16, 1976 at 2:45 P.M. at the offices of the State Tax Commission, 65 Court Street, Buffalo, New York, before Harry Huebsch, Hearing Officer. Petitioner, J. Britton Selover, appeared by his representative, Harold M. Finger, Public Accountant. The Income Tax Bureau appeared by Peter Crotty, Esq., (Alexander Weiss, Esq. of counsel).

## ISSUE

Was petitioner, J. Britton Selover, an employee of Tennessee Gas Pipeline Company during the years 1967, 1968 and 1969, or were the services he rendered for said company performed as an independent contractor and the income therefrom subject to unincorporated business tax.

FINDINGS OF FACT

1. Petitioner, J. Britton Selover, filed New York State personal income tax returns for 1967, 1968 and 1969 reporting business income as a self-employed consultant. He did not file unincorporated business tax returns for said years. The Income Tax Bureau issued a Notice of Deficiency dated September 30, 1974 holding this income subject to unincorporated business tax. The deficiency was in the amount of \$1,874.22 unincorporated tax due plus \$603.22 interest, for a total sum of \$2,477.44.

2. Prior to 1966, petitioner, J. Britton Selover, was employed by Tennessee Gas Pipeline Company as a right of way agent who obtained easements from property owners for his employer. In 1966, petitioner, J. Britton Selover, reached the age 65 when, according to company policy, he was required to retire. Also, company policy prohibited the rehiring of a retired employee.

3. Petitioner, J. Britton Selover, exercised the option to receive his retirement pension in a lump sum. He assumed the name Advance Abstract Easement Company and entered into an agreement with Tennessee Gas Pipeline Company to render, on a per diem basis, substantially the same services as he had rendered as an employee. Petitioner, J. Britton Selover, was not issued a withholding tax statement and no deductions were made from his compensation. He received no employee benefits and was not controlled as to hours

or days worked. Petitioner, J. Britton Selover, hired assistants when necessary for whom he was reimbursed by his employer. On occasion, he worked for and was paid by Iroquois Gas Corporation when an assignment involved pipe lines connecting with Tennessee Gas Pipeline Company. Petitioner, J. Britton Selover, filed Federal Schedule C and finances his own retirement plan.

CONCLUSIONS OF LAW

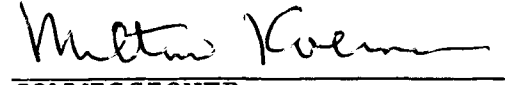
A. That petitioner, J. Britton Selover, was engaged in the carrying on of an unincorporated business during the years 1967, 1968 and 1969 in accordance with the meaning and intent of section 703 of the Tax Law.

B. That the petition of J. Britton Selover is denied and the Notice of Deficiency dated September 30, 1974 is sustained.

DATED: Albany, New York  
January 14, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER