

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ISRAEL WALD

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)~~ :
1966 & 1967

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 15th day of July, 1977, she served the within Notice of Decision by (certified) mail upon Israel Wald (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Israel Wald
302 West 12th Street
New York, NY 10014
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

15th day of July, 1977.

Marsina Donnini

Janet Mack



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

July 15, 1977

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

Mr. Israel Wald
302 West 12th Street
New York, NY 10014

Dear Mr. Wald

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 Chryrywaty
Hearing Examiner

cc: ~~Petitioner's Representative~~
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
ISRAEL WALD	:	DECISION
	:	
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Taxes	:	
under Article 23 of the Tax Law for the	:	
Years 1966 and 1967.	:	

Petitioner, Israel Wald, residing at 302 West 12th Street, New York, New York 10014, 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 years 1966 and 1967. (File No. 13457).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on September 21, 1976 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (A. Schwartz, Esq., of counsel).

ISSUE

Whether the income from the petitioner's activities as a fur buyer and fur broker is subject to the unincorporated business tax.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Israel Wald, was retained by Birken Brothers, Inc., as a fur buyer for the years 1966 and 1967. When the corporation needed fur skins for the production of garments, it instructed the petitioner of their need and he, in turn, would go into the fur market and purchase the necessary skins from various suppliers.

2. Whenever skins were ordered by the petitioner, the suppliers would add 1/2% to their prices and bill Birken Brothers, Inc. directly for the increased amount. The petitioner was then paid a 1/2% commission by the supplier.

3. Petitioner's compensation for his services was strictly on a commission basis, with no withholding of payroll taxes and no reimbursement of business expenses.

4. Birken Brothers, Inc. and the various fur skin suppliers never exercised any substantial direction and control over the time and effort devoted to his sales activities. He reported to Birken Brothers, Inc. only when and if he desired.


5. The income received by petitioner from various suppliers during 1966 and 1967 constituted income from his regular business as a buyer and not compensation as an employee exempt from the unincorporated business tax.

6. The aforesaid activities constituted the carrying on of an unincorporated business and the income derived therefrom is subject to the unincorporated business tax within the meaning and intent of section 703 of the Tax Law.

7. The petition of Israel Wald is denied and the Notice of Deficiency issued May 21, 1973 for \$423.24 is sustained together with such additional interest as may be lawfully owing.

DATED: Albany, New York
July 15, 1977

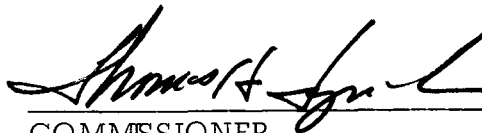
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER