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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANK M. GRAVES

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business ;
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) 1969. :

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Lynn Wilson , 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 24th day of July , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon FRANK M. GRAVES

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
Mr. Frank M. Graves
wrapper addressed as follows: c/o Institute of Public Administration
1619 Massachusetts Avenue, N.W.
Washington, D.C. 20036

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

24th day of July , 1973.

Martha J. J. J.

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ~~XXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
July 24, 1973

Mr. Frank M. Graves
c/o Institute of Public Administration
1619 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Dear Mr. Graves:

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.

Any 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.
These will be referred to the proper party for
reply.

Very truly yours,


Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
FRANK M. GRAVES	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Year 1969.	:	

Petitioner, Frank M. Graves, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1969. (File No. 0-44718034). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on April 23, 1973, at 1:30 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Francis X. Boylan, Esq., of Counsel).

ISSUE

Did petitioner, Frank M. Graves', activities as management and economic consultant during the year 1969 constitute the practice of a profession?

FINDINGS OF FACT

1. Petitioner, Frank M. Graves, did not file a New York State unincorporated business tax return for the year 1969.

2. On August 6, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Frank M. Graves, imposing unincorporated business in the sum of \$255.73, upon the income

received by him from his activities as a consultant during the year 1969. It also imposed a penalty pursuant to section 685(a) of the Tax Law in the sum of \$78.00, for failure to file an unincorporated business tax return for said year making the total due with interest in the sum of \$353.83.

3. On or about August 11, 1971, petitioner, Frank M. Graves, paid the aforesaid sum of \$353.83 and filed a claim for refund. His claim for refund was denied by the Income Tax Bureau on January 10, 1972.

4. Petitioner, Frank M. Graves, was an independent management and economic consultant to the Institute of Public Administration during the year 1969. He was paid on a fee basis. He maintained an office in his apartment in New York City. He worked on two studies in their behalf during the year 1969. The first study concerned the economics of a possible consolidation of the City of Atlanta with the counties of Fulton and Dekalb in the State of Georgia. The second study concerned the economics of capital investment in urban mass transportation. The Institute of Public Administration had initially been retained on a fee basis to do these studies by the City of Atlanta and the United States Department of Transportation respectively.

5. Petitioner, Frank M. Graves, received a Bachelor of Science degree in chemistry from Syracuse University. He received a Masters of Business Administration degree in research management from the University of Pittsburgh. He has completed all of his requirements for a Ph.D at the University of Pittsburgh,

except for writing a dissertation. He worked as a chemist for Esselen Research Corporation, Boston, Massachusetts, from 1949 to 1952. He worked as an economist for Arthur D. Little, Inc., Cambridge, Massachusetts, from 1952 to 1954. He worked as a junior fellow for the Mellon Institute, Pittsburgh, Pennsylvania, from 1954 to 1960. He worked as a United States Steel Foundation Fellow for the University of Pittsburgh from 1960 to 1962. He worked as Director of Research and New York Office Manager for Consad Research Corporation, New York, New York, from 1963 to 1966. He worked as Client Services Manager for EBS Management Consultants, Inc., New York, during the year 1966. He worked as a senior economist for Battelle Memorial Institute, Columbus, Ohio, during the year 1967. He has been associated with the Institute of Public Administration, Washington, D.C., from 1968 to the present time. He is a member of the American Economic Association, the American Statistical Association, the Association for Computing Machinery, the Econometric Society, the National Economists Club, the Operations Research Society of America, the Institute for Management Sciences, the Washington Operations Research Council and Pi Mu Epsilon, an honorary mathematics fraternity at Syracuse University. He has written over 19 papers and articles and worked on over 20 studies related to his field of endeavor. He has lectured at numerous universities and conferences. He has testified as an expert witness before Federal agencies.

6. During the year 1969, petitioner, Frank M. Graves', income as a management and economic consultant was derived solely from personal services rendered. Capital was not a material income producing factor.

7. Petitioner, Frank M. Graves, claimed in addition to the refund, reimbursement for his expenses for the time he spent in preparing for and attending the formal hearing held on April 23, 1973.

CONCLUSIONS OF LAW

A. That the activities of petitioner, Frank M. Graves, as a management and economic consultant during the year 1969, although requiring special knowledge and experience, did not constitute the practice of a profession exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law.

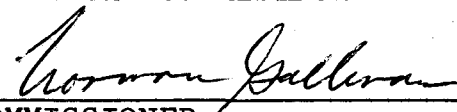
B. That the aforesaid activities of petitioner, Frank M. Graves, during the year 1969 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.


C. That Articles 22 and 23 of the Tax Law do not provide for the reimbursement of expenses incurred by a taxpayer in preparing for and attending a formal hearing pursuant to said articles.

D. That the petition and claim for refund of Frank M. Graves is denied.

DATED: Albany, New York
July 24, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER