

Unincorp. Bus. Tax
BUREAU OF LAW
MEMORANDUM

*Determinations A-Z**Wood, Ralph S.*

TO: Commissioners Murphy, Macduff and Conlon

FROM: Vincent P. Molineaux, Hearing Officer

SUBJECT: Ralph S. Wood, Application for revision
of unincorporated business tax for the
years 1950, 1951 and 1952

A hearing in the above matter was scheduled to be held before me March 1, 1967 and the taxpayer did not appear in person or by representative. Mr. Wood is 80 years of age and is retired and living on social security in Florida, and his health is seriously impaired, all of which make it impossible for him to attend a hearing, or employ representation.

The question involved is whether the taxpayer is exempt from unincorporated business tax under Article 16-A of the Tax Law as practicing a profession.

Taxpayer, during the years in question, was licensed as an architect in the State of Connecticut but not in New York. He was engaged in New York in the writing of architectural specifications for other architects.

The Law Division of the Department of Education advises that there is no recognized professional classification of specification writer under the Education Law, which regulates the practice of professions other than Law. An architect licensed in Connecticut could obtain a temporary permit for a particular job in New York, but the only basis under which a man continuously writing specifications in New York could operate would be on the basis that specification writing is something less than the practice of architecture. There are no established formal educational requirements for the taxpayer's activity and the work performed does not involve the application of knowledge in a field of science or learning which is gained by a prolonged course of study. The fact that the taxpayer, in this instance, as a licensed architect in Connecticut, had special qualifications which would not be required of others in the same field does not provide a basis for granting a professional exemption as an individual.

For the reasons stated above, I recommend that the determination of the State Tax Commission in the above matter denying the application for revision be substantially in the form submitted herewith.

/s/

VINCENT P. MOLINEAUX

Hearing Officer

YPM:ig
June 22, 1967

6/29/67

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION :
OF :
RALPH S. WOOD :
FOR REVISION OF UNINCORPORATED BUSINESS :
TAX UNDER ARTICLE 16-A OF THE TAX LAW :
FOR THE YEARS 1950, 1951 AND 1952 :
-----:

The taxpayer, Ralph S. Wood, having filed an application for revision of unincorporated business tax under Article 16-A of the Tax Law for the years 1950, 1951 and 1952 and a hearing having been scheduled thereon at the office of the State Tax Commission at 80 Centre Street, New York, N.Y. for the first day of March 1967 and no appearance having been made on behalf of the taxpayer and the documents on file having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer filed personal income tax returns for the years 1950, 1951 and 1952 on which the tax shown to be due was paid.

(2) That on March 10, 1955 the State Tax Commission issued Assessment Nos. 836772, 836773 and 836774 for the years 1950, 1951 and 1952 in the respective amounts of \$451.46, \$321.20 and \$161.87 for unincorporated business tax on the ground that the activities of the taxpayer during the years 1950, 1951 and 1952 constituted carrying on of an unincorporated business tax subject to the provisions of Article 16-A of the Tax Law.

(3) That the taxpayer during the years in question was licensed as an architect in the State of Connecticut but

was engaged in New York State in the writing of specifications for other architects. He was not licensed as an architect in New York State.

(4) That there is no professional classification of specification writer recognized under the New York Education Law which regulates the practice of professions other than Law; that there are no established formal educational requirements for the taxpayer's activity of the writing of specifications and the work performed does not involve the application of knowledge in a field of science or learning which is gained by a prolonged course of study; that the writing of architectural specifications is one part of the practice of architecture but, like drafting, it does not in itself constitute the practice of architecture and is not in itself the practice of a profession within the meaning of section 306 of the Tax Law and is, therefore, not exempt from unincorporated business tax.

Based upon the foregoing findings and all of the evidence in the file, the State Tax Commission hereby

DETERMINES:

(A) That the Assessments \$36772, \$36773 and \$36774 were correctly issued,

(B) That the application for revision is denied and

IT IS SO ORDERED

Dated: Albany, New York this 12th day of July, 1967.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY
PRESIDENT

/s/

JAMES R. MACDUFF
COMMISSIONER

/s/

WALTER MACLYN CONLON
COMMISSIONER