

STATE OF NEW YORK
STATE TAX COMMISSION

Geiger Leslie
O. B. T. 1970
23

In the Matter of the Petition

of

Leslie Geiger

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

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) 1961

State of New York
County of Albany

Martha Funaro, 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 11th day of January, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon Leslie Geiger

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Leslie Geiger
1 West 81st Street
New York, New York

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

11th day of January, 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Leslie Geiger

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) 1961 :

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
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State of New York
County of Albany

Martha Funaro , 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 11th day of January , 19 71, she served the within
Notice of Decision (or Determination) by (certified) mail upon Leslie Geiger

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: George Mocsari
305 West 72nd Street
New York, New York 10023

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

11th day of January , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Leslie & Elizabeth Geiger

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

^eFor a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) 1962 :

State of New York
County of Albany

Martha Funaro , 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 11th day of January , 19 71, she served the within
Notice of Decision (or Determination) by (certified) mail upon Leslie &
Elizabeth Geiger (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Leslie & Elizabeth Geiger
1 West 81st Street
New York, New York 10024

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

11th day of January , 1971.

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Leslie & Elizabeth Geiger

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) 1962

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

State of New York
County of Albany

Martha Funaro, 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 11th day of January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Leslie & Elizabeth Geiger (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: George Mocsari
305 West 72nd Street
New York, New York 10023

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

11th day of January, 1971

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
LESLIE GEIGER
for a Redetermination of a Deficiency
or for Refund of Unincorporated Busi-
ness Taxes under Article 23 of the Tax
Law for the year 1961

DECISION

In the Matter of the Petition
of
LESLIE & ELIZABETH GEIGER
for a Redetermination of a Deficiency
or for Refund of Unincorporated Busi-
ness Taxes under Article 23 of the Tax
Law for the year 1962

Leslie Geiger and Elizabeth Geiger, his wife, have petitioned for a redetermination of a deficiency, under dates of April 5, 1965, for \$458.27 plus interest of \$77.42 and April 29, 1965, for \$1337.00 plus interest of \$138.39, of unincorporated business taxes, file numbers 1-8315953 and 2-8111431, for the years 1961 and 1962 respectively. A formal hearing was held before Solomon Sies, Hearing Officer, in the offices of the State Tax Commission in the City of New York on March 30, 1966. The petitioners appeared through George Mocsari, CPA.

FINDINGS OF FACT

1. The issue involved in this matter is whether salary income received by the taxpayer as an officer of a corporation should be integrated with his independent business income so as to constitute additional business income subject to unincorporated business tax.

2. Taxpayers concede additional normal tax as a result of federal audit of the 1962 tax return in the amount of \$49.00 plus interest.

3. Taxpayers are husband and wife, each owning fifty percent of the stock outstanding in West South American Overseas Corporation (The Corporation). The husband, Mr. Leslie Geiger, is President of the Corporation and performs the managerial functions.

4. The Corporation acts as purchasing agent for South American industrial firms in the purchase of heavy machinery.

5. Mr. Leslie Geiger received \$12,600.00 and \$32,000.00 salary as an officer of the Corporation during the years 1961 and 1962 respectively.

6. Mr. Geiger was also individually engaged in business negotiating for the sale of iron-ore from Canadian and South American mines to industrial firms in Japan and West Germany.

7. In connection with his individually run business, Mr. Geiger used the offices of the corporation and paid rental therefore.

8. Mr. Geiger employed no assistants in connection with the individual business.

9. The telephone directory for the year 1961 indicates the same telephone listing for the individual and the corporation.

10. Mr. Geiger paid rent of \$1800.00 to the corporation for maintenance of an office in connection with his unincorporated business activities for the year 1961 but paid no rent for 1962.

11. Mr. Geiger took depreciation of office equipment of \$1908.13 for both 1961 and 1962 with respect to his individual business.

12. Mr. Geiger had office expenses of \$1987.18 and \$1562.62 for the years 1961 and 1962 respectively with respect to his individual business.

DECISION

A. The activities of the taxpayer on behalf of the corporation were not connected with his individual business activities.

B. Services performed by the taxpayer as an officer of the corporation did not constitute a part of the taxpayer's individual business activities and did not constitute the carrying on of an unincorporated business within the meaning and intent of Article 23 of the Tax Law and the resulting income is therefore not subject to the unincorporated business tax.

C. The petitions for redetermination are granted. The notices of deficiency for the years 1961 and 1962 are incorrect and cancelled.

DATED: Albany, New York
December 31, 1970

STATE TAX COMMISSION

Norman Halloran

COMMISSIONER

COMMISSIONER

Milton Krone

COMMISSIONER