

STATE OF NEW YORK
STATE TAX COMMISSION

HEARING UNIT - File Copy

TAX UBT

ART. 23 SECS. 722

KEY WORDS _____

In the Matter of the Petition of

BARBARA HANNAN

for a Redetermination of a Deficiency
or for Refund of Unincorporated Business
Taxes under Article 23 of the Tax Law
for the years 1962 and 1963

CROSS REFS. _____

DECISION _____

CASE LAW CITATIONS _____

REMARKS _____

Barbara Hannan petitioned for a redetermination of a deficiency or for refund of Unincorporated Business Taxes under Article 23 of the Tax Law for the years 1962 and 1963. A formal hearing was held before Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission in the City of Albany on December 17, 1969. The petitioner appeared through Koblenz & Koblenz, Esqs., (Edmund A. Koblenz, Esq., of counsel), and the Income Tax Bureau was represented by Edward H. Best, Esq., (Solomon Sies, Esq. of counsel).

FINDINGS OF FACT:

1. The petitioner, Barbara Hannan, did not file Unincorporated Business Tax returns for the years 1962 and 1963.
2. On May 2, 1966, a notice of deficiency was issued by the Income Tax Bureau under file numbered 3-7798310 for the years 1962 and 1963. The deficiency was based on a finding that the business activities of the petitioner constituted the carrying on of an unincorporated business and the resulting income was subject to the unincorporated business tax.
3. The petition, timely filed, states that the petitioner is engaged in the practice of a profession and her activities do not constitute the carrying on of an unincorporated business.
4. During the years 1962 and 1963, the petitioner was a free lance commercial model. The petitioner was under contract with a corporate model agency. The agency would obtain modeling employment for which the petitioner would pay them a commission of ten percent of the gross monies received from these assignments. The modeling

services covered by the contract were in live fashion shows, photography, advertising and product endorsement.

The petitioner's earnings from specified television appearances where an employer-employee relationship existed were not in issue.

The petitioner excels in her particular field of work by reason of years of disciplined training and experience in addition to her natural grace and appearance.

5. The petitioner is not engaged in the practice of a profession within the meaning and intent of Article 23 of the Tax Law.


DECISION:

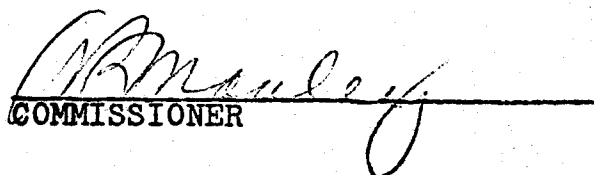
A. The business activities of the petitioner during the years 1962 and 1963 constitute the carrying on of an unincorporated business and the income derived therefrom is subject to the unincorporated business tax.


B. The notice of deficiency is sustained, and the petition is denied.

DATED: Albany, New York
May 25, 1970

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