

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELEANOR LAMBERT BERKSON

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 and 1962.

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

State of New York
County of Albany

Linda 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 23rd day of December, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon SAMUEL OSER (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Samuel Oser
370 Lexington Avenue
New York, New York 10017
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

23rd day of December, 1971.

Martha L. Lunnard

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELEANOR LAMBERT BERKSON

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 and 1962.

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

State of New York
County of Albany

Linda 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 23rd day of December, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon ELEANOR LAMBERT BERKSON (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Eleanor Lambert Berkson
1060 Fifth Avenue
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

23rd day of December, 1971.

Martha Funnell

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
ELEANOR LAMBERT BERKSON : DECISION
for a Redetermination of a Deficiency :
or for Refund of Unincorporated Business :
Taxes under Article 23 of the Tax Law :
for the Years 1961 and 1962. :

Eleanor Lambert Berkson filed a petition for the redetermination of a deficiency dated October 25, 1965, in unincorporated business taxes under Article 23 of the Tax Law for the years 1961 and 1962. A hearing was duly held before Nigel G. Wright, Hearing Officer, on October 20, 1970, at the offices of the New York State Tax Commission, 80 Centre Street, New York, New York. The petitioner was not present but appeared by Samuel Oser, C.P.A. The Income Tax Bureau was represented by Edward H. Best, Esq. (Francis X. Boylan, Esq., of Counsel). The record of said hearing has been duly examined and considered.

ISSUE

The issue is whether petitioner, who is a fashion consultant, is a professional and, therefore, exempt from the unincorporated business tax under section 703(c) of the Tax Law.

FINDINGS OF FACT

1. Petitioner's work is primarily to advise business enterprises of fashion trends and to obtain favorable publicity for them through shows. She is not a designer. She handles about twenty clients at once and her only compensation is from fees paid directly by them. Petitioner's office is in New York City. Petitioner has seven employees.

2. Petitioner has no formal academic training in fashion styles and trends. She is a member of the Advisory Committee of the Fashion Institute of Technology. Petitioner's abilities

derive primarily from her experience and her acquaintances in the fashion industry.

3. Petitioner was the original promoter of the March of Dimes Fashion Show, the Coty Fashion Cities Award, the National Cotton Fashion Award. In 1960, petitioner received the New York Board of Trade's Gold Medal Award for outstanding contributions to the fashion industry. She has been a member of the National Council on the Arts.

4. The deficiency in issue is in the amount of \$2,650.62. In addition, the same deficiency notice includes \$452.11 as personal income taxes due but that has not been contested except as to payment and no testimony or evidence has been submitted to prove payment.

CONCLUSIONS OF LAW

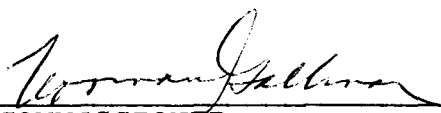
A fashion consultant is not a professional and petitioner is not exempt from the unincorporated business tax.

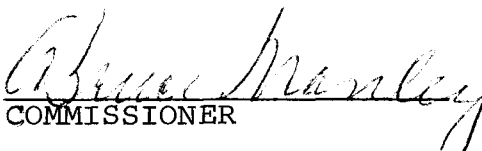
DECISION

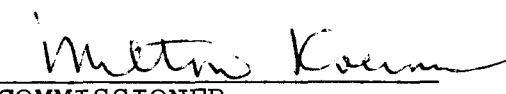
The petition is denied and the deficiency is affirmed together with such interest, if any, as may be due pursuant to section 684 of the Tax Law.

DATED: Albany, New York
December 23, 1971.

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER