

STATE OF NEW YORK
STATE TAX COMMISSION

Peterson, Gordon
U. B. T. Joan B.
(1971)

In the Matter of the Petition

of

GORDON A. & JOAN B. PETERSON

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, 1963, :
1964 and 1965.

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 12th day of August, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon GORDON A. &
JOAN B. PETERSON (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Gordon A. & Joan B. Peterson
R.D. #1
Adams, New York 13605
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

12th day of August, 1971

Naith Ferraro

James M. Ferraro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
GORDON A. AND JOAN B. PETERSON : DECISION
for a Redetermination of a Deficiency :
or for Refund of Unincorporated Business :
Taxes under Article 23 of the Tax Law :
for the Years 1962, 1963, 1964 and 1965. :

Gordon A. and Joan B. Peterson petitioned for a redetermination of a deficiency in unincorporated business taxes for the years 1962, 1963, 1964 and 1965. A formal hearing was held before L. Robert Leisner, Hearing Officer, at the offices of the State Tax Commission, Utica, New York, on November 19, 1970. Petitioner, Gordon A. Peterson, appeared individually and for Joan B. Peterson. The Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

Are the taxpayers exempt from unincorporated business tax where they operate a bookkeeping and tax service but are not licensed as lawyers or public accountants?

FINDINGS OF FACT

1. Petitioners, Gordon A. Peterson and Joan B. Peterson, timely filed New York State income tax returns but did not file New York State unincorporated business tax returns for the years 1962, 1963, 1964 and 1965.

2. Notices of Deficiency were issued against petitioners under File No. 2-3638254 for 1962 and File No. 46107110 for 1963, 1964 and 1965.

3. The Income Tax Bureau determined that petitioners' activities as proprietor of a bookkeeping and tax service were subject

to unincorporated business tax.

4. The petitioner, Gordon A. Peterson, contended that such activities fitted the definition of accountancy under section 7401 of the Education Law and that he was exempt from unincorporated business tax as a professional.

5. Gordon A. Peterson actively carried on a bookkeeping and tax service in Adams, New York during the years in issue. He was enrolled to practice before the United States Treasury Department and appeared at informal conferences on federal income tax matters, but he was not admitted to the bar or the Tax Court.

6. Gordon A. Peterson was not enrolled as a Public Accountant, nor certified as a Certified Public Accountant.

CONCLUSIONS OF LAW

A. Petitioners have not shown that they were accountants or professionals by virtue of their activities. Bookkeeping and tax services have often been performed by nonprofessionals and by service corporations. Nor were either of the petitioners licensed as accountants or professionals under New York State Law.

B. The petitioners were not exempt from the unincorporated business tax during the years in issue.

C. The notices of deficiency herein are sustained.

D. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York

August 12, 1971.

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER