

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM J. BELL

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) 1965, 1966 :
and 1967.

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

State of New York
County of Albany

Lynn 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 16th day of March , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon WILLIAM J.

BELL (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: William J. Bell
131 Arthur Street
Garden City, New York 11530

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

16th day of March , 1972.

Martha Funnell

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 16th day of March , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon WILLIAM KEEGAN,
ESQ. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: William Keegan, Esq.

144-22 87th Road
Jamaica, New York 11435

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

16th day of March , 1972.

Martha Fusaro

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
March 16, 1972

William J. Bell
131 Arthur Street
Garden City, New York 11530

Dear Mr. Bell:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 722 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
WILLIAM J. BELL	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1965, 1966 and 1967.	:	

Petitioner, William J. Bell, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1965, 1966 and 1967. (File No. 74473643). A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York for August 18, 1971, at 2:45 P.M. On said date, petitioner's representative, William Keegan, Esq., waived a formal hearing and requested that the State Tax Commission render a decision based upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUES

I. Did petitioner, William J. Bell's, activities as a textile marketing consultant during the years 1965, 1966 and 1967 constitute the practice of a profession?

II. Did petitioner, William J. Bell's, income from his activities as a textile marketing consultant during the years 1965, 1966 and 1967 constitute income received from a Connecticut partnership

which did not maintain a place of business within New York State?

FINDINGS OF FACT

1. Petitioner, William J. Bell, and his wife filed New York State income tax resident returns for the years 1965, 1966 and 1967. He listed his occupation on said returns as "stylist consultant". He reported his income as a consultant on said returns under "business income". He did not file New York State unincorporated business tax returns for said years.

2. On April 13, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, William J. Bell, imposing unincorporated business tax upon business income received by him during the years 1965, 1966 and 1967. It also imposed a penalty for failure to file New York State unincorporated business tax returns for said years in the sum of \$483.18. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$2,756.37.

3. In June, 1964, petitioner, William J. Bell, entered into an agreement with Charles S. Fowler wherein they agreed to hold themselves out to the public as Fowler, Bell & Associates, textile consultants. Mr. Fowler conducted his end of the business activities from his home in Connecticut which was the "official headquarters" of Fowler, Bell & Associates. Petitioner, William J. Bell, conducted his business activities from his home in Garden City, New York. He has failed to submit any documentary or other substantial evidence to indicate that any portion of his income was earned outside of New York State. In practice, petitioner was not a partner with Mr. Fowler, although they held themselves out to the public as a

partnership. Instead he was a consultant for him for which he received from Mr. Fowler or from Fowler, Bell & Associates commissions and fees.

4. Petitioner, William J. Bell, received a form 1099 for the year 1965 from Charles S. Fowler in the sum of \$19,488.00. He received forms 1099 for the years 1966 and 1967 from Fowler, Bell & Associates in the sums of \$32,354.00 and \$29,728.00 respectively. These latter payments were listed on the forms as fees and commissions.

5. Petitioner, William J. Bell, and his wife filed U.S. individual income tax returns for the years 1965, 1966 and 1967. He listed his occupation as "stylist consultant" on said returns. On Schedule "C" in said returns, he listed the income received from Charles S. Fowler and Fowler, Bell & Associates as fees or as fees and commissions. He deducted expenses in connection with his business activities, including expenses for postage, supplies, telephone, travel, entertainment, heat, electric and maintenance on said schedules.

6. Fowler, Bell & Associates did not file federal partnership returns for the years 1965, 1966 and 1967.

7. Petitioner, William J. Bell's, income as a textile marketing consultant during the years 1965, 1966 and 1967 was derived solely from personal services rendered. Capital was not a material income producing factor.

8. Petitioner, William J. Bell, failed to submit any documentary or other substantial evidence to prove that his activities as a textile marketing consultant during the years 1965, 1966 and 1967 constituted the practice of a profession. He submitted no proof as

to his educational background or as to his standing within his field of endeavor.

CONCLUSIONS OF LAW

A. That the activities of petitioner, William J. Bell, as a textile marketing consultant during the years 1965, 1966 and 1967, although requiring special knowledge and experience, did not constitute the practice of a profession exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law.

B. That the income received by petitioner, William J. Bell, during the year 1965 from Charles Fowler and during the years 1966 and 1967 from Fowler, Bell & Associates constituted receipts from his regular business as textile marketing consultant which was carried on from a sole office located in his home in New York State and not income received as a partner of a Connecticut partnership which did not maintain a place of business within New York State.

C. That the aforesaid activities of petitioner, William J. Bell, during the years 1965, 1966 and 1967 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

D. That the petition of William J. Bell is denied and the Notice of Deficiency issued April 13, 1970, is sustained.

DATED: Albany, New York
March 16, 1972.

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Manley
COMMISSIONER

Milton Korman
COMMISSIONER