

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

ALEXANDER <sup>of</sup> R. NORDEN and  
ALEXANDRA K. NORDEN

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) 1962 and 1963.

State of New York  
County of Albany

Rae Zimmerman , 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 17th day of March , 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Alexander R. Norden  
and Alexandra K. Norden  
(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Alexander R. Norden and  
Alexandra K. Norden  
350 Central Park West  
New York, New York 10025

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

17th day of March , 1972.

Martha F. Jones

Rae Zimmerman

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ALEXANDER R. NORDEN and  
ALEXANDRA K. NORDEN

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) 1962 and 1963.

State of New York  
County of Albany

Rae Zimmerman, 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 17th day of March, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Louis L. Kaplan, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Louis L. Kaplan, Esq.  
101 West 30th Street  
New York, New York 10001  
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

17th day of March, 1972

M. J. F. [Signature]

Rae Zimmerman



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 17, 1972

Alexander R. Norden and  
Alexandra K. Norden  
350 Central Park West  
New York, N.Y. 10025

Dear Sir and Madam:

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 **four 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

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In the Matter of the Petition	:	
of	:	
ALEXANDER R. NORDEN and	:	
ALEXANDRA K, NORDEN	:	DECISION
for Redetermination of Deficiency	:	
or for Refund of Unincorporated	:	
Business Taxes under Article 23	:	
of the Tax Law for the Years 1962	:	
and 1963	:	

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Petitioners, Alexander R. Norden and Alexandra K. Norden have filed a petition for redetermination of deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1962 and 1963. (File numbered 3-6461587) A formal hearing was held before Alfred Rubinstein, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on June 27, 1967 at 2:30 P.M. Petitioners appeared by Louis L. Kaplan, Esq.

FINDINGS OF FACT

1. Petitioners, Alexander R. Norden and Alexandra K. Norden, filed joint New York State income tax resident returns for the years 1962 and 1963. Petitioner, Alexander R. Norden, did not file any unincorporated business tax returns for the years 1962 and 1963.

2. On October 17, 1966 the Income Tax Bureau issued a revised statement of audit changes against petitioners, Alexander R. Norden and Alexandra K. Norden, imposing unincorporated business tax upon the income received by petitioner, Alexander R. Norden, including salary income received by him from his activities as an engineering consultant during the years 1962 and 1963, upon the grounds that these activities constituted the carrying on of an unincorporated business in accordance with the provisions of Article 23 of the Tax Law and accordingly issued a notice of deficiency therefor in the sum of \$1,065.98.

3. Petitioner, Alexander R. Norden, received a degree in electrical engineering from the Imperial College of Science and Technology in London, England. He did graduate work in the field of electronic engineering at the University of Manchester in England. He was an electronics officer with the Royal Air Force for five years. He was manager of Research and Development for Federal Pacific Electric Company from 1948 to 1961. He was the holder of over 100 United States and Foreign patents mainly in the field of electrical distribution equipment. He was a member of the American Institute of Electrical Engineers, a member of a number of advisory committees of Underwriters Laboratories, Inc. and chairman of the General Engineering Committee of the National Electrical Manufacturers Association.

4. During the years 1962 and 1963, petitioner, Alexander R. Norden, consulted with clients, designed work programs and work methods, designed, planned and developed electrical products and rendered technical advise to management in the formulation of product development policies. His two principal clients during these years were Murray Manufacturing Corp. and Westinghouse Corporation. He developed, evaluated, planned and designed electrical power distribution equipment in the residential field for Murray Manufacturing Corp. He developed, evaluated, planned and designed electrical power distribution equipment in the industrial field for Westinghouse Corp. On his New York State income tax returns he listed his occupation as "engineer" and his type of business as "engineering consultant".

5. Petitioner, Alexander R. Norden, during the years 1962 and 1963 was not licensed as a professional engineer by the State of New York in accordance with the provisions of Article 145 of the Education Law.

6. More than 80% of petitioner, Alexander R. Norden's, business income and salary was derived from personal services rendered by him and capital was not a material income producing factor.

7. Petitioner, Alexander R. Norden, during the years 1961 and 1962 did not work as a salesman. He did not consult with others on sales except as an essential and normal part of the engineering design of the products. He received no commissions on goods sold and was not a sales engineer. He was not involved in the administrative activities of any of his clients. Generally, he was only involved with a new product from the time of its theoretical conception to the time of the construction of a pilot model.

8. In 1962 petitioner, Alexander R. Norden, incorporated Alexander R. Norden, Inc. It was wholly owned by him. It had one other employee who was an engineer. It withheld federal and state income taxes and social security taxes from the salary paid to him. The services rendered by the corporation were identical to the services rendered by him individually as an engineering consultant. He formed the corporation solely because Westinghouse Corp. did not want to deal with him in his individual capacity due to liability insurance problems. The sole client of the corporation during the years 1962 and 1963 was Westinghouse Corp. He received a salary of \$3,000.00 in 1962 and \$15,750.00 in 1963 from the corporation.

9. The services performed by petitioner, Alexander R. Norden, during the years 1962 and 1963 in connection with electrical distribution machinery and equipment required the application of engineering principals and data and was concerned with and involved the safeguarding of life, health and property.

#### CONCLUSIONS OF LAW

A. That the business activities of petitioner, Alexander R. Norden, during the years 1962 and 1963 constituted the practice of professional engineering in accordance with the meaning and intent of Section 7201(4) of the Education Law.

B. That since petitioner, Alexander R. Norden, during the years 1962 and 1963 was not licensed as a practicing professional engineer pursuant to Section 7206 of the Education Law, his business activities

did not constitute the practice of a profession exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of Section 703(c) of the Tax Law.

C. That the services rendered by petitioner, Alexander R. Norden, during the years 1962 and 1963 as an officer of Alexander R. Norden, Inc. were so integrated and interrelated with his activities as an engineering consultant as to constitute part of a business regularly carried on by him and therefore the salary received by him for services as an officer of the corporation was not exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of Section 703(b) of the Tax Law.

D. That the aforesaid business activities of petitioner, Alexander R. Norden, during the years 1962 and 1963 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to unincorporated business tax in accordance with the meaning and intent of Section 703 of the Tax Law.

E. That the petition of Alexander R. Norden and Alexandra K. Norden is denied and the notice of deficiency issued October 17, 1966 is sustained.

DATED: Albany, New York

*March 17, 1972*

STATE TAX COMMISSION

*Joseph Ballman*  
COMMISSIONER

*Blair Mawley*  
COMMISSIONER

*Milton Kvern*  
COMMISSIONER