

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRED SCHLISSEL

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, :
1967 and 1968.

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 4th day of April , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon FRED SCHLISSEL

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

wrapper addressed as follows: Mr. Fred Schlissel
920 Browers Street
Woodmere, 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

4th day of April , 1972

Martha Fuxa

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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FRED SCHLISSEL

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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 4th day of April , 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon HAROLD H.

SCHRIEBER, ESQ. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Harold H. Schrieber, Esq.

1 Park Avenue
New York, New York 10016

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
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Sworn to before me this

4th day of April , 1972.

Martha Furass

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
April 4, 1972

Mr. Fred Schlissel
920 Browers Street
Woodmere, New York

Dear Mr. Schlissel:

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

Please take further notice that pursuant to section(s)
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 relating 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	:	
FRED SCHLISSEL	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Unincorporated Business Tax	:	
under Article 23 of the Tax Law for the	:	
Years 1965, 1966, 1967 and 1968.	:	

Petitioner, Fred Schlissel, 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, 1967 and 1968. (File No. 8-14515523). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on July 14, 1971, at 10:45 A.M. Petitioner appeared by Harold H. Schrieber, Esq. The Income Tax Bureau appeared by Edward H. Best, Esq., (Albert J. Rossi, Esq., of Counsel).

ISSUE

Did petitioner, Fred Schlissel's activities as a management consultant and advisor during the years 1965, 1966, 1967 and 1968 constitute the practice of a profession?

FINDINGS OF FACT

1. Petitioner, Fred Schlissel, and his wife filed New York State income tax resident returns for the years 1965, 1966, 1967 and 1968. He did not file New York State unincorporated business tax returns for said years.

2. On September 28, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Fred Schlissel, imposing unincorporated business tax upon the income received by him from his activities as a management consultant and advisor during the years 1965, 1966, 1967 and 1968, and accordingly issued a Notice of Deficiency in the sum of \$1,552.74.

3. During the years 1965, 1966, 1967 and 1968, petitioner, Fred Schlissel, provided management advising and consulting services for various companies related to analysis, planning and organization; introduction of new ideas, concepts and methods to management; improvement of policies, procedures, systems and methods of organizational relationships; application and use of managerial accounting, control systems and data processing; special studies and recommendations, development of plans and program and the providing of advice and technical assistance in their implementation. He was not a certified public accountant. He was paid on a fee basis by his clients.

4. Petitioner, Fred Schlissel, received a Bachelor of Business Administration degree in management from the College of the City of New York in 1952. He received a Masters degree in management from Columbia University in 1960. He took courses toward a Ph.D. degree in business administration at New York University. In 1960 he was employed by a C.P.A. firm to manage their management advisory services department for a period of two years. He gave lectures, conducted seminars and wrote articles in the area of business management. He was a member of the Society for the Advancement

of Management, the Society for Professional Management Consultants and the Institute of Management Consultants.

5. During the years 1965, 1966, 1967 and 1968, petitioner, Fred Schlissel's, income as a management advisor and consultant was derived solely from personal services rendered. Capital was not a material income producing factor.

CONCLUSIONS OF LAW

A. That the activities of petitioner, Fred Schlissel, as a management consultant and advisor during the years 1965, 1966, 1967 and 1968, 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 aforesaid activities of petitioner, Fred Schlissel, during the years 1965, 1966, 1967 and 1968 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.

C. That the petition of Fred Schlissel is denied and the Notice of Deficiency issued September 28, 1970, is sustained.

DATED: Albany, New York

April 4, 1972

STATE TAX COMMISSION

Norman Gallbreath
COMMISSIONER

Bruce Bradley
COMMISSIONER

Milton Krumm
COMMISSIONER