

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN W. WIERSMA

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) 1963, 1964  
and 1965

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 JOHN W.

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

wrapper addressed as follows: Mr. John W. Wiersma  
444 Montpelier Road  
Herndon, Virginia 22070

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.

Rae Zimmerman

Lynn Wilson

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN W. WIERSMA

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) 1963, 1964 :  
and 1965

AFFIDAVIT OF MAILING  
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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 , 19 72, she served the within  
Notice of Decision (or Determination) by (certified) mail upon VITALY M.  
GOTTLIEB, C.P.A. (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Vitaly M. Gottlieb, C.P.A.  
Grossman, Brozman & Agrin  
Two Pennsylvania Plaza  
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

4th day of April , 19 72

Martha Farnard

Lynn Wilson



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

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

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**April 4, 1972**

**Mr. John W. Wiersma**  
**444 Montpelier Road**  
**Herndon, Virginia 22070**

**Dear Mr. Wiersma:**

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

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In the Matter of the Petition	:	
of	:	
JOHN W. WIERSMA	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Unincorporated Business Tax	:	
under Article 23 of the Tax Law for the	:	
Years 1963, 1964 and 1965.	:	

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Petitioner, John W. Wiersma, 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 1963, 1964 and 1965. (File No. 39286904). 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 October 22, 1971, at 10:30 A.M. Petitioner's representative, Vitaly M. Gottlieb, C.P.A., advised the State Tax Commission in writing on October 4, 1971, that petitioner wished to waive a formal hearing and submit the case to the State Tax Commission on the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Did petitioner, John W. Wiersma's activities as a travel industry and management consultant during the years 1963, 1964 and 1965 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, John W. Wiersma, and his wife filed New York State income tax resident returns for the years 1963 and 1964 and

for the period from January 1, 1965 through September 30, 1965. He did not file New York State unincorporated business tax returns for said years.

2. On May 1, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, John W. Wiersma, imposing unincorporated business tax upon the income received by him as a consultant during the years 1963 and 1964 and the period from January 1, 1965 through September 30, 1965, and accordingly issued a Notice of Deficiency in the sum of \$1,877.92.

3. Petitioner, John W. Wiersma, was a travel industry and management consultant during the years 1963, 1964 and 1965. He received fees from three firms during the year 1963, from four firms during the year 1964 and from nine firms during the period from January 1, 1965 through September 30, 1965. He was also a student at Columbia University under a Ford Foundation fellowship during these years. Federal and New York State income taxes and social security tax were not deducted from the compensation paid to him. He filed Schedule "C's" wherein he stated that his principal business activity was travel industry consultant and management consultant. He deducted business expenses, stationery, printing, office and other miscellaneous expenses on said schedules. He conducted his business activities from his home at 280 Riverside Drive in New York City. He has failed to prove that the firms from whom he received compensation exercised any control or supervision with respect to the time, manner and means of his carrying out his consulting activities.

Milton Greene  
COMMISSIONER

STATE OF NEW YORK  
Department of Taxation and Finance

STATE CAMPUS  
ALBANY, N. Y. 12227

*Handwritten:*  
26-1-1972  
Mr. Wiersma

Mr. John W. Wiersma  
444 Montpelier Road

Herndon, Virginia 22070

**CERTIFIED**

**No. 592504**

**MAIL**

*Handwritten:* 4-11-72

**POSTAL SERVICE**  
Uncollected  
All postage paid  
Insufficient postage  
No such office in ZIP  
No such address in ZIP



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. John W. Wiersma  
444 Montpelier Road  
Herndon, Virginia 22070

Dear Mr. Wiersma:

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 :

JOHN W. WIERSMA :

DECISION

for Redetermination of Deficiency or for  
Refund of Unincorporated Business Tax  
under Article 23 of the Tax Law for the  
Years 1963, 1964 and 1965. :

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Petitioner, John W. Wiersma, 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 1963, 1964 and 1965. (File No. 39286904). 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 October 22, 1971, at 10:30 A.M. Petitioner's representative, Vitaly M. Gottlieb, C.P.A., advised the State Tax Commission in writing on October 4, 1971, that petitioner wished to waive a formal hearing and submit the case to the State Tax Commission on the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Did petitioner, John W. Wiersma's activities as a travel industry and management consultant during the years 1963, 1964 and 1965 constitute the carrying on of an unincorporated business?

FINDINGS OF FACT

1. Petitioner, John W. Wiersma, and his wife filed New York State income tax resident returns for the years 1963, 1964 and

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN W. WHARREN

PETITIONER

for Re determination of Deficiency or Tax  
Relief of Unincorporated Business Tax  
under Article 22 of the Tax Law for the  
Years 1963, 1964 and 1965.

Petitioner, John W. Wharren, has filed a petition for redetermination of deficiency or for relief of unincorporated business tax under Article 22 of the Tax Law for the years 1963, 1964 and 1965. (File No. 31864-64). A formal hearing was scheduled before Paul A. Coburn, Hearing Officer, at the offices of the State Tax Commission, 81 Centre Street, New York, New York, for October 22, 1964, at 10:30 A.M. Petitioner's representative, Virgil H. Gottlieb, C.F.A., advised the State Tax Commission he was unable to attend on October 22, 1964, but petitioner wished to waive a formal hearing and submit the case to the State Tax Commission on the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

1964

All petitioner, John W. Wharren's activities as a private industry and management consultant during the years 1963, 1964 and 1965 constitute the carrying on of an unincorporated business.

FINDINGS OF FACT

1. Petitioner, John W. Wharren, and his wife filed New York State income tax resident returns for the years 1963, 1964 and 1965.

for the period from January 1, 1965 through September 30, 1965.

He did not file New York State unincorporated business tax returns for said years.

2. On May 1, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, John W. Wiersma, imposing unincorporated business tax upon the income received by him as a consultant during the years 1963 and 1964 and the period from January 1, 1965 through September 30, 1965, and accordingly issued a Notice of Deficiency in the sum of \$1,877.92.

3. Petitioner, John W. Wiersma, was a travel industry and management consultant during the years 1963, 1964 and 1965. He received fees from three firms during the year 1963, from four firms during the year 1964 and from nine firms during the period from January 1, 1965 through September 30, 1965. He was also a student at Columbia University under a Ford Foundation fellowship during these years. Federal and New York State income taxes and social security tax were not deducted from the compensation paid to him. He filed Schedule "C's" wherein he stated that his principal business activity was travel industry consultant and management consultant. He deducted business expenses, stationery, printing, office and other miscellaneous expenses on said schedules. He conducted his business activities from his home at 280 Riverside Drive in New York City. He has failed to prove that the firms from whom he received compensation exercised any control or supervision with respect to the time, manner and means of his carrying out his consulting activities.

for the period from January 1, 1965 through September 30, 1965. He did not file New York State unincorporated business tax returns for said years.

2. On May 1, 1967, the Income Tax Bureau issued a Statement of Audit Charges against petitioner, John W. Williams, imposing unincorporated business tax upon the income received by him as a consultant during the years 1963 and 1964 and the period from January 1, 1965 through September 30, 1965, and accordingly issued a Notice of Deficiency in the sum of \$1,317.32.

3. Petitioner, John W. Williams, was a travel industry and management consultant during the years 1963, 1964 and 1965. He received fees from three firms during the year 1963, from four firms during the year 1964 and from nine firms during the period from January 1, 1965 through September 30, 1965. He was also a student at Columbia University under a Ford Foundation Fellowship during these years. Federal and New York State income taxes and social security tax were not deducted from the compensation paid to him. He filed Schedule "C-1" wherein he stated that his principal business activity was travel industry consultant and management consultant. He deducted business expenses, including printing, office and other miscellaneous expenses on said schedules. He conducted his business activities from his home at 280 Riverside Drive in New York City. He has failed to prove that the claim from whom he received compensation exercised any control or supervision with respect to the time, manner and means of his carrying out his consulting activities.

CONCLUSIONS OF LAW

A. That the income received by petitioner, John W. Wiersma, during the years 1963 and 1964 and the period from January 1, 1965 through September 30, 1965 from the firms that he represented constituted receipts from his regular business as a travel industry and management consultant and not compensation as an employee exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That the aforesaid activities of petitioner, John W. Wiersma, during the aforesaid years 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 John W. Wiersma is denied and the Notice of Deficiency issued May 1, 1967, is sustained.

DATED: Albany, New York

*April 4, 1972.*

STATE TAX COMMISSIONER

*Norman J. Johnson*  
COMMISSIONER

*Bruce Manley*  
COMMISSIONER

*Milton K. Green*  
COMMISSIONER

COMMISSIONERS OF TAX

4. That the income received by petitioner, John W. Williams,

during the years 1953 and 1954 and the period from January 1, 1955

through September 30, 1955 from the time that he represented

corporation, receipts from his regular business as a travel industry

and manager's commission and not compensation as an employee

except from the imposition of the unincorporated business tax in

accordance with the meaning and intent of section 102(b) of the

Tax Law.

5. That the essential activities of petitioner, John W. Williams,

during the aforesaid years consisted of 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 102 of the Tax Law.

6. That the petition of John W. Williams is denied and the

Notice of Deficiency issued May 1, 1957, is sustained.

STATE TAX COMMISSION

ALBANY, NEW YORK

COMMISSIONER

COMMISSIONER

COMMISSIONER