

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SOL D. WILK

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) 1964 :

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 3rd day of August , 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon SOL D. WILK

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Sol D. Wilk
3000 - 6 Stevens Street
Oceanside, New York 11572

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

3rd day of August , 1972.

Martha Furano

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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
August 3, 1972

Mr. Sol D. Wilk
3000-6 Stevens Street
Oceanside, New York 11572

Dear Mr. Wilk:

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 deci-
sion must be commenced within **4 months**
from 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 relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
SOL D. WILK	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Year 1964.	:	

Sol D. Wilk filed a petition under sections 689 and 722 of the Tax Law for a redetermination of a deficiency dated January 27, 1969, (and based upon federal audit changes which were not reported to the State) in unincorporated business taxes imposed under Article 23 of the Tax Law for the year 1964.

A hearing was held on August 13, 1971, before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York City.

The petitioner was not represented. The Income Tax Bureau was represented by Edward H. Best, Esq. (Francis X. Boylan, Esq., of Counsel).

The record of said hearing has been duly examined and considered.

ISSUE

The issue raised by the petition is whether the petitioner, a transportation consultant, is exempt from tax as a professional under section 703(c) of the Tax Law.

FINDINGS OF FACT

1. Petitioner graduated from high school, attended Brooklyn

College for a time and then attended and graduated from the Traffic Managers Institute, Inc. (since merged into the Academy of Advanced Traffic) in New York City. Since graduation he has returned to teach regular courses there.

2. Until 1954 petitioner worked as an assistant traffic manager on the staff of various companies.

3. Since 1954 petitioner has done business as Cargo Consultants Company describing this business as "distribution and warehouse services". Petitioners activity is to advise on how to ship freight in the most economical manner taking into account volume, net profit, time, the number of connecting carriers, and other factors. Occasionally, he will design and set up a traffic department for a small company.

4. Petitioner's activities require an intimate knowledge of the tariff schedules promulgated by the twelve area motor carrier conferences and by the railroad rate bureaus all under the jurisdiction of the Interstate Commerce Commission.

5. The deficiency notice of January 27, 1969, asserts a deficiency in personal income tax of \$94.61 plus interest which is not contested and a deficiency in unincorporated business tax of \$115.56 plus interest which is disputed.

CONCLUSIONS OF LAW

Petitioner is not a professional with the meaning of the Tax Law (see Regulation 20 NYCRR 281.4(c) and Traub v. Goodrich, 286 App. Div. 927, aff'd. 2 NY 2d 759). That all of petitioner's income is due to personal services is not alone sufficient for the

exemption (see Regulation 20 NYCRR 281.4(b)).

DECISION

The petition is denied and the deficiency is affirmed together with such interest as may be due under section 684 of the Tax Law.

DATED: Albany, New York

August 3, 1972.

STATE TAX COMMISSION

Norman Gailman

COMMISSIONER

Bruce Manley

COMMISSIONER

Milton Krumm

COMMISSIONER