

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SIDNEY M. POLHEMUS

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

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

State of New York  
County of Albany

Martha Funaro , 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 January , 19 73, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Sidney M. Polhemus

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

wrapper addressed as follows: Sidney M. Polhemus

R.F.D. 2

Ballouville Road

Dayville, Connecticut

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 January , 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A  
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**January 16, 1973**

**Sidney M. Polhemus  
R.F.D. 2  
Ballouville Road  
Dayville, Connecticut**

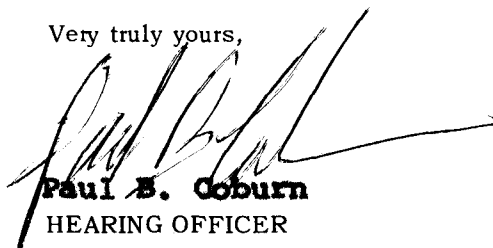
**Dear Mr. Polhemus:**

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

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In the Matter of the Petition	:	
of	:	
SIDNEY M. POLHEMUS	:	DECISION
for Redetermination of Deficiency	:	
or for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Year 1963.	:	

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Petitioner, Sidney M. Polhemus, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1963. (File No. 3-3417902). 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 May 22, 1972, at 2:45 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

#### ISSUES

I. Was petitioner, Sidney M. Polhemus, engaged in the practice of a profession during the year 1963?

II. Did petitioner, Sidney M. Polhemus, have reasonable cause for failing to file a New York State unincorporated business tax return for the year 1963?

#### FINDINGS OF FACT

1. Petitioner, Sidney M. Polhemus, and his wife filed a New York State income tax resident return for the year 1963. He did not file a New York State unincorporated business tax return for said year.

2. On February 19, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Sidney M. Polhemus, imposing unincorporated business tax in the sum of \$277.67 upon the income received by him from his business activities during the year 1963. It also imposed a penalty in the sum of \$69.42 for failure to file a New York State unincorporated business tax return for said year. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$411.13.

3. Petitioner, Sidney M. Polhemus, attended eight colleges including two graduate schools for a total of eight years. He has a degree in Psychology. He does not have a degree in Marine Engineering or Mechanical Engineering. He was a member of the Society of Plastic Engineers. He has delivered a critique to the Society of Naval Architects and Marine Engineers. He was not licensed as a professional engineer by the New York State Education Department.

4. Petitioner, Sidney M. Polhemus's income during the year 1963 was derived from personal services rendered. Capital was not a material income producing factor.

5. Petitioner, Sidney M. Polhemus, failed to submit any documentary or other sufficient evidence to prove the specific nature of his work during the year 1963.

6. Petitioner, Sidney M. Polhemus, was advised by his accountant that he was not required to file a New York State unincorporated business tax return for the year 1963.

CONCLUSIONS OF LAW

A. That petitioner, Sidney M. Polhemus, has failed to prove that his business activities during the year 1963 constituted 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 petitioner, Sidney M. Polhemus, had reasonable cause for not filing a New York State unincorporated business tax return for the year 1963, and, therefore, the penalty assessed pursuant to section 685(a) of the Tax Law is waived.

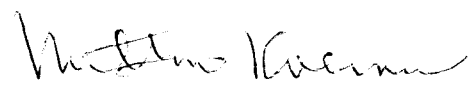
C. That the petition of Sidney M. Polhemus is granted to the extent of cancelling the penalty imposed pursuant to section 685(a) of the Tax Law for the year 1963 in the sum of \$69.42; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued February 19, 1968; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York  
January 16, 1973

STATE TAX COMMISSION

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COMMISSIONER

  
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COMMISSIONER

  
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COMMISSIONER