

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HARVEY B. ROSENBLOOM

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, 1965 & :
1966

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 27th day of February , 19 73, she served the within
Notice of Decision (or Determination) by (certified) mail upon Harvey B. Rosenbloom

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Harvey B. Rosenbloom
96 Dartmouth Street
Rochester, New York 14606

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

27th day of February , 19 73

Lynn Wilson

Martha Funaro



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

February 27, 1973

Harvey B. Rosenbloom
96 Dartmouth Street
Rochester, New York 14606

Dear Mr. Rosenbloom:

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

Please take further notice that pursuant to **section 690** 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,

L. Robert Leisner
L. Robert Leisner
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HARVEY B. ROSENBLOOM	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1964, 1965 and 1966.	:	

Harvey B. Rosenbloom petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the years 1964, 1965 and 1966.

A formal hearing was held at the offices of the State Tax Commission, Rochester, New York on November 10, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer appeared personally and the Income Tax Bureau was represented by Edward H. Best, Esq. (Alexander Weiss, Esq., of Counsel).

ISSUE

Was the petitioner, as a real estate appraiser, a professional exempt from unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Harvey B. Rosenbloom, timely filed New York State income tax returns for the years 1964, 1965 and 1966.
2. A Notice of Determination of deficiencies in unincorporated business taxes for the years 1964, 1965 and 1966 was issued on March 17, 1969, against the taxpayer under File No. 66091898.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. Taxpayer earned income as a real estate appraiser. Taxpayer claimed that he was exempt as a professional under the unincorporated business tax law. He submitted much evidence to show the professional character of real estate appraisal work.

5. Taxpayer holds a B.S. degree in Economics from the University of Illinois. Taxpayer's formal education has included courses in accounting, financing, statistics, business law and real estate law. Taxpayer maintains a library and has pursued independent study in the appraisal field and has specialized in condemnation appraisal practice.

6. In 1948 when the taxpayer earned his degree from the University of Illinois there were no degrees in real estate, but now there are B.S. degrees in business administration with a major area of specialization in real estate. Over 350 universities and colleges offer real estate courses and 60 universities and colleges make real estate available as a major study toward a degree.

7. The taxpayer contends that as a real estate appraiser he is a professional and exempt from unincorporated business tax.

8. The taxpayer was licensed as a real estate salesman in 1939. In 1942 he was licensed as a real estate broker. He was active continuously in real estate and did general appraisals, but in the 1950's he began to specialize in appraisal work. An appraiser must have specialized knowledge and also skill and experience in making appraisals.

9. The taxpayer has performed appraisal assignments for the City of Rochester, the Rochester Housing Authority, the Rochester Urban Renewal Agency, the City of Glens Falls and the Glens Falls Urban Renewal Agency, among others.

10. The taxpayer has testified before the New York Supreme Court and several court-appointed commissions. His opinion as to fair market value has aided courts in determining just compensation.

11. Business corporations have for many years engaged in appraisal work and services.

CONCLUSIONS OF LAW


A. Although appraisers, as well as persons in many other occupations, trades, or businesses have some of the characteristics of professionals, the appraisal field is a business subject to unincorporated business tax. Adelsberg v. Comm., 278 App. Div. 606.

B. The petition is denied and the determination of the deficiency is sustained.

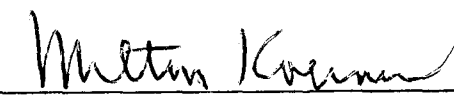
C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
February 27, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER