

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MILTON L. and DOROTHY M. SCOTT

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

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) 1960 & 1961

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 10th day of August , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Milton L. &
Dorothy M. Scott (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. & Mrs. Milton L. Scott
601 Hanshaw Road
Ithaca, 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

10th day of August , 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MILTON L. and DOROTHY M. SCOTT :

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) 1960 & 1961 :

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 10th day of August , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Armand L. Adams, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Armand L. Adams, Esq.
504 Seneca Building
Ithaca, 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
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Sworn to before me this

10th day of August , 1973

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

Mario A. Procaccino,
~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York
August 10, 1973

Mr. & Mrs. Milton L. Scott
601 Hanshaw Road
Ithaca, New York

Dear Mr. & Mrs. Scott:

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	:	
MILTON L. and DOROTHY M. SCOTT	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1960 and 1961.	:	

Milton L. and Dorothy M. Scott filed a petition pursuant to sections 722 and 689 of the Tax Law for redetermination of deficiency in unincorporated business tax under Article 23 of the Tax Law for the years 1960 and 1961.

A hearing was held on May 14, 1965, at the offices of the State Tax Commission, 333 East Washington Street, Syracuse, New York, before Martin Schapiro, Hearing Officer. Petitioners were represented by Armond L. Adams, Esq.

ISSUE

The issue is whether the petitioner, Milton L. Scott, an animal nutritionist, is exempt from tax under section 703(c) of the Tax Law as a professional.

FINDINGS OF FACT

1. Petitioner, Milton L. Scott, is a full professor of Poultry Nutrition at Cornell University, Ithaca, New York. Petitioner received his Ph.D. from Cornell University in 1945 in the field of animal nutrition and is a leading authority in this area of study.

2. Various vitamin companies, chemical companies, and feed mills have retained petitioner, Milton L. Scott, as a consultant, to advise them on the latest scientific developments in poultry nutrition research. Petitioner has also advised companies dealing in the manufacture and sale of poultry and animal foods on the nutritional elements of their feeds in order to bring their feed formulas into accord with the latest research on animal nutrition. This consultation is done with the knowledge and encouragement of the Poultry Department at Cornell University provided these firms do not capitalize publicly on the name of the individual or the university.

3. In 1960, petitioner, Milton L. Scott, received \$13,602.73 in fees from these firms and \$12,650.00 in fees in 1961.

4. Petitioner, Milton L. Scott, received miscellaneous honoraria from lectures, generally on nutrition given at events such as research conferences. For these lectures, petitioner received \$2,655.00 in 1960 and \$1,548.00 in 1961.

5. There were a number of miscellaneous articles on nutrition written by petitioner, Milton L. Scott, which were published during the two years in question. Fees from these publications amounted to \$745.00 in 1960 and \$300.00 in 1961.

CONCLUSIONS OF LAW

A. The petitioners have not carried their burden of proof to establish that the consultations given by petitioner, Milton L. Scott, to various business firms on nutrition, constituted a profession rather than services which aided these firms in the conduct of their business (see Backman v. Bates, 279 A.D. 1115 (1952)). Petitioner, Milton L. Scott, received unincorporated

business income of \$12,900.72 (\$13,602.73 less \$702.01 expenses) in 1960 and \$11,979.42 (\$12,650.00 less \$670.58 expenses) in 1961.


B. The fees received by petitioner, Milton L. Scott, for miscellaneous lectures and articles published, amounting to \$3,400.00 in 1960 and \$1,848.00 in 1961, are excluded from unincorporated business tax.

DECISION

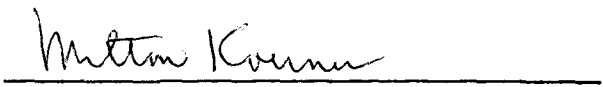
The deficiency without interest is recomputed to be \$396.16 together with such further interest as may be due under section 684 of the Tax Law; in all other respects the petition is denied.

DATED: Albany, New York
August 10, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER