

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
WILLIAM BARRETT BROWN

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business :
Taxes under Article(8) 23 of the
Tax Law for the (Year(s) 1961 through :
1967.

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

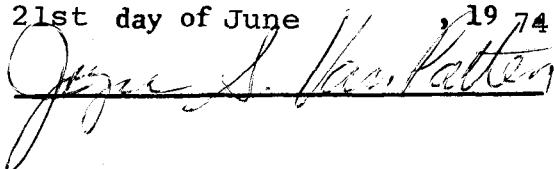
State of New York
County of Albany

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 21st day of June , 19 74, she served the within
Notice of Decision (or Determination) by (certified) mail upon William Barrett
Brown (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. William Barrett Brown
c/o R. W. Pressprich & Co.
80 Pine Street
New York, 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

21st day of June , 19 74


Joseph S. MacKatten


Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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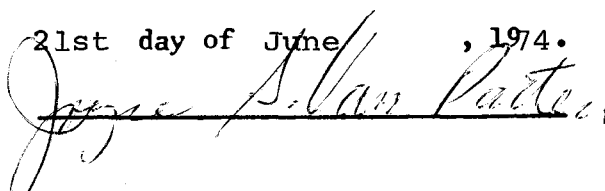
State of New York
County of Albany

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wrapper addressed as follows: Oppenheim, Appel, Dixon & Company
140 Broadway
New York, New York 10005
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Sworn to before me this

21st day of June , 1974.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM BARRETT BROWN

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

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
Taxes under Article(s) 16, 16-A and the Article 23
Tax Law for the Year(s) 1953 through 1959 and
1960.

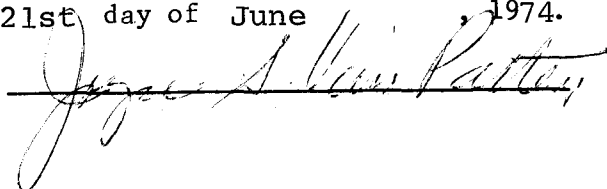
State of New York
County of Albany


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21st day of June, 1974.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM BARRETT BROWN

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

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
Taxes under Article(s) 16, 16-A of the and Article 23
Tax Law for the (Year(s) 1953 through 1959 and
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State of New York
County of Albany

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known address of the (representative of the) petitioner.

Sworn to before me this

21st day of June , 1974.

George S. L. Patten

Martha Funaro

DATED: Albany, New York

June 21, 1974

**Mr. William Barrett Brown
c/o R. W. Pressprich & Co.
80 Pine Street
New York, New York**

Dear Mr. Brown:

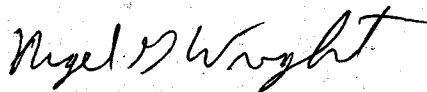
**Please take notice of the Determination of the
State Tax Commission enclosed herewith.**

**Please take further notice that pursuant to
sections 375 and 386j of the Tax Law any proceeding
in court to review an adverse decision under Articles
16 and 16A of the Tax Law must be commenced within
90 days after the date of this notice.**

**Please take further notice that pursuant to
section 722 of the Tax Law any proceeding in
court to review an adverse decision under Article 23
of the Tax Law 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,



**Nigel G. Wright
Hearing Officer**

cc: Law Bureau

RECEIVED

NOV 11 1964

Mr. J. Edgar Hoover
U.S. Department of Justice
Washington, D.C.

Dear Mr. Hoover:

Enclosed for you are two copies of a letterhead memorandum (LHM) dated and captioned as above.

The LHM is being prepared by the Federal Bureau of Investigation (FBI) and is being submitted to you for your information and guidance. It contains information regarding the activities of the Communist Party, U.S.A., and its efforts to infiltrate the United States government.

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Very truly yours,


J. Edgar Hoover
Director

cc - Mr. Tolson



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
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

~~NORMAN F. SALIKIAN~~
Mario A. Procaccino, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
June 21, 1974

Mr. William Barrett Brown
c/o R. W. Pressprich & Co.
80 Pine Street
New York, New York

Dear Mr. Brown:

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,


Nigel G. Wright
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
WILLIAM BARRETT BROWN	:	DECISION
	:	
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law for	:	
the Years 1961 through 1967.	:	
	:	
	:	

William Barrett Brown, filed petitions under sections 722 and 689 of the Tax Law for the redetermination of a deficiency issued on March 31, 1969 for the years 1961, 1962 and 1963 in the amount of \$3,200.00 plus interest of \$1,148.82 and a penalty for failure to file a return of \$800.00 for a total of \$5,158.82 and for the redetermination of a deficiency issued March 29, 1971, for the years 1964 through 1967 in the amount of \$6,359.50 (of which \$6,000.00 is for unincorporated business tax) interest of \$1,559.86 and a penalty of \$1,500.00 for the failure to file returns for a total of \$9,419.36 for personal income and unincorporated business tax under Articles 22 and 23 of the Tax Law.

A hearing was duly held on February 8, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The taxpayer was represented by Jack Wong, C.P.A. of Oppenheim, Appel, Dixon and Company. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by James Scott, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether taxpayer's activities as a financial advisor (apart from the activities of a partnership of which he was a member) were sufficiently continuous, frequent and regular to constitute a business subject to unincorporated business tax. A secondary issue is the imposition of penalties for failure to file returns for unincorporated business tax. Petitioner does not contest any personal income tax included in the deficiencies.

FINDINGS OF FACT

1. Petitioner was a resident and domiciliary of Greenwich, Connecticut, during the years in question. He also had an apartment at 1120 Park Avenue, New York City and was a resident of New York for purposes of income taxation. He filed tax returns under the personal income tax as a resident.

2. Petitioner was a partner of R. W. Pressprich and Company, 48 Wall Street, New York City, a securities broker and dealer. The firm has a substantial income from investment advisory fees. He was the managing partner of the firm during the years in question. He is a recognized authority in the field of financial management and stock market analysis.

3. In the 1920's Mr. Brown had become a partner in Pressprich using as a capital contribution a large sum of money he had borrowed from a friend, Mrs. Vetlesen. She had used the Pressprich firm as her broker. Over the years he had paid this back with interest

and had maintained close ties with Mrs. Vetlesen and her family including her son, Edmund C. Monell. Mrs. Vetlesen died about 1958. Mrs. Vetlesen had created at least two foundations either prior to or at her death, the Ambrose Monell Foundation and the G. Unger Vetlesen Foundation.

4. Mr. Brown gave Mrs. Vetlesen investment advice from time to time when requested. (These are the activities which are in issue in this case.) Mr. Brown gave such advice at least at the beginning out of moral obligation and without fee. Although he originally had resisted fees he, in fact, received substantial payments for his advice from Mrs. Vetlesen, Mr. Monell and the two foundations. For the fifteen years from 1953 through 1967 Mr. Brown received \$712,500.00 which averages \$47,500.00 a year. These ranged from \$24,000.00 at the lowest to \$72,000.00 at the highest.

5. The advice given Mrs. Vetlesen and the fees received from her were not considered by Mr. Brown to be part of the business of the partnership of which he was a member. He had the permission of the partnership to carry on this activity so long as it did not interfere with partnership business.

6. Mr. Brown has never maintained a business office separate from the New York office of Pressprich and Company.

7. Mr. Brown did not appear at the hearing of this case and was not subject to cross-examination. The statements of his representative were conclusory in character and based by his own

admission on surmise. They will not be credited except to the extent facts are otherwise found in this decision. In particular, the petitioner has not come forward with evidence of the extent of his advisory activities in each year.

8. Petitioner did not file returns for unincorporated business tax for the years in question. He had received advice that the advisory activities here in question would be treated separately from his partnership income and that they were too casual to be considered as business done in New York.

CONCLUSIONS OF LAW

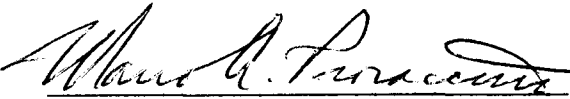
The activities of petitioner in New York constitute the doing of business. These activities, at least as shown on the record, are not so casual so as to be exempt from tax. Also these activities have not been shown to be attributable to the partnership rather than to the petitioner individually. Even if, however, they were attributable to the firm then liability for the tax thereon would still be on this petitioner as a partner in the firm. The penalties are waived.

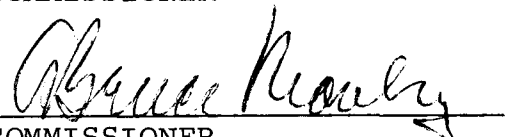
DECISION

The deficiencies without the penalties are found to be correct and are due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
June 21, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
WILLIAM BARRETT BROWN : DETERMINATION
for Revision or Refund of Personal Income :
and Unincorporated Business Taxes under :
Articles 16 and 16-A of the Tax Law for :
the Years 1953 through 1959. :
:

In the Matter of the Application :
of :
WILLIAM BARRETT BROWN : DETERMINATION
for Revision or Refund of Unincorporated :
Business Tax under Article 23 of the Tax :
Law for the Year 1960. :

William Barrett Brown filed an application under sections 386(j) and 374 of the Tax Law for the revision of separate annual assessments for both personal income and unincorporated business taxes under Articles 16 and 16-A of the Tax Law and including penalties for failure to file returns for unincorporated business tax. Said assessments were issued on March 14, 1960, for the years 1953 through 1956 and some have been paid in part. The application also requests refunds of taxes paid pursuant to said assessments for 1953 and 1954. Mr. Brown filed a similar application with respect to similar annual assessments issued on January 21, 1969, for the years 1957, 1958 and 1959. Said assessments have been paid in part.

Mr. Brown also filed an application on November 16, 1962, under section 722 of the Tax Law (as it existed prior to amendment by Chapter 1011 of the Laws of 1962) and under section 374 of the Tax Law for revision of an assessment for unincorporated business tax under Article 23 of the Tax Law including a penalty for failure

to file a return. Said assessment was issued on June 14, 1962, and revised in part on January 21, 1969, for the year 1960. All applications were denied in whole or in part and Mr. Brown demanded a hearing.

A hearing was duly held on February 8, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The taxpayer was represented by Jack Wong, C.P.A. of Oppenheim, Appel, Dixon and Company. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by James A. Scott, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether taxpayer's activities as a financial advisor (apart from the activities of a partnership of which he was a member) were sufficiently continuous, frequent and regular to constitute a business subject to unincorporated business tax. A secondary issue is the imposition of penalties for failure to file returns for unincorporated business tax. Petitioner does not contest any personal income tax included in the assessments.

FINDINGS OF FACT

1. Petitioner was a resident and domiciliary of Greenwich, Connecticut, during the years in question. He also had an apartment at 1120 Park Avenue, New York City and was a resident of New York for purposes of income taxation. He filed tax returns under the personal income tax as a resident.

2. Petitioner was a partner of R.W. Pressprich and Company, 48 Wall Street, New York City, a securities broker and dealer. The firm has a substantial income from investment advisory fees. He was the managing partner of the firm during the years in question. He is a recognized authority in the field of financial management

and stock market analysis.

3. In the 1920's, Mr. Brown had become a partner in Pressprich using as a capital contribution a large sum of money he had borrowed from a friend, Mrs. Vetlesen. She had used the Pressprich firm as her broker. Over the years, he had paid this back with interest and had maintained close ties with Mrs. Vetlesen and her family including her son, Edmund C. Monell. Mrs. Vetlesen died about 1958. Mrs. Vetlesen had created at least two foundations either prior to or at her death, the Ambrose Monell Foundation and the G. Unger Vetlesen Foundation.

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6. Mr. Brown has never maintained a business office separate from the New York office of Pressprich and Company.

7. Mr. Brown did not appear at the hearing of this case and was not subject to cross-examination. The statements of his representative were conclusory in character and based by his own admission on surmise. They will not be credited except to the extent facts are otherwise found in this decision. In particular, the petitioner has not come forward with evidence of the extent of his advisory activities in each year.

8. Petitioner did not file returns for unincorporated business tax for the years in question. He had received advice that the advisory activities here in question would be treated separately from his partnership income and that they were too casual to be considered as business done in New York.

CONCLUSIONS OF LAW

The activities of petitioner in New York constitute the doing of business. These activities, at least as shown on the record, are not so casual so as to be exempt from tax. Also, these activities have not been shown to be attributable to the partnership rather than to the petitioner individually. Even if, however, they were attributable to the firm liability for the tax thereon would still be on the petitioner as a partner of the firm. The penalties are waived.

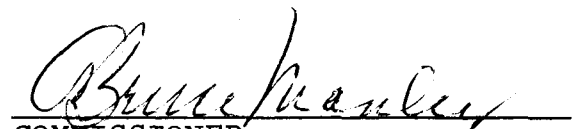
DETERMINATION

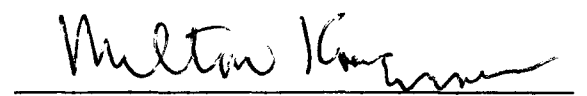
The assessment, without penalties, do not include taxes or other charges which cannot be lawfully demanded and payment thereof has not been illegally made and said assessments are found to be correct and are due together with such interest which the Income Tax Bureau may compute pursuant to section 376 of the Tax Law.

DATED: Albany, New York
June 21, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER