

Reed, Norman R.
J.B.T.
1974-

MEMORANDUM

TO : John J. Garry, Administrative Director
Income Tax Bureau

FROM : Saul Heckelman, Counsel

SUBJECT: Norman R. Reed
Art. 23 - 1969 and 1970 J.B.T.

A formal hearing was held before L. Robert Leisner, Hearing Officer, on September 20, 1973.

The issue involved herein is whether the taxpayer is exempt from unincorporated business income tax on the ground that he is engaged in the practice of accountancy although he is not registered as a certified public accountant or enrolled as a public accountant with the New York State Education Department.

The taxpayer received a Bachelor of Arts degree from Bucknell University in June 1935 with 12 semester hour credits in accounting. He also received a Master of Business Administration degree from the Harvard University School of Business Administration in June 1937 majoring in Finance with advanced courses in Accounting Principles and Industrial Accounting.

Mr. Reed was employed as a plant controller for Chase Brass & Copper Co. in Waterbury, Connecticut and Cleveland, Ohio from 1937 to 1957 and as manager of the cost accounting department of Xerox Corporation in Rochester, New York from 1959 to 1968.

Since 1968, Norman R. Reed has been self-employed as a consultant in accounting and taxes. In 1969 the taxpayer was admitted to practice before the Internal Revenue Service.

The taxpayer submitted at the hearing a letter from one of his clients which stated, in part, that "Mr. Reed is doing exactly the same type of work which was previously done by a firm of certified public accountants." He testified that he prepares for his clients quarterly profit and loss statements, balance sheets, payroll tax returns and financial statements in addition to the preparation of tax returns.

In view of the opinion in Kahn and Jacobs v. State Tax Commission, 39 AD 2d 278, aff'd 33 NY 2d 549 and Mr. Reed's educational background and work experience, I am of the opinion that Mr. Reed is exempt from unincorporated business income tax pursuant to section 703(c) of the Tax Law on the ground he is engaged in the practice of a profession.

Will you therefore please cancel the Notice of Deficiency.

I am enclosing the Law Bureau and Hearing Unit folders and will reflect this matter on our records as a closed case.

Counsel

SS:bs/ld
Enc.
August 5, 1974

cc: Jacob Bodian, Assistant Director
Gabriel DiCerbo
L. Robert Leisner