

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANCIS M. BURESH

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 (8) 23 of the
Tax Law for the Year(s) 1968 and 1969:

State of New York
County of Albany

MARY GROFF, 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 29th day of December, 1975, she served the within
Notice of Decision ~~(for Determination)~~ by (certified) mail upon Francis M. Buresh

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Francis M. Buresh

North Jay Road
Ausable Forks, New York 12912

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)~~
~~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

29th day of December, 1975.

Janet Mack

Mary Groff



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
JAMES H. TULLY, JR., PRESIDENT
MILTON KOERNER

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227
AREA CODE 518

ADDRESS YOUR REPLY TO
Mr. Wright
Mr. Leisner
Mr. Coburn
(518) 457-3850

DATED: Albany, New York
December 29, 1973

Mr. Francis M. Buresh
North Jay Road
Ausable Forks, New York 12912

Dear Mr. Buresh:

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

Please take further notice that pursuant to
Section (a) **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,


PAUL B. COBURN

HEARING OFFICER

Enc.

cc: ~~Revised and Resubmitted~~
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
FRANCIS M. BURESH :
for a Redetermination of Deficiency or :
for Refund of Unincorporated Business :
Taxes under Article 23 of the Tax Law :
for the Years 1968 and 1969. :
:

DECISION

Petitioner, Francis M. Buresh, North Jay Road, Ausable Forks, New York 12912, has filed a petition for redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1968 and 1969. (File No. 9-35011354).

A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on October 31, 1973, at 10:30 A.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of counsel).

ISSUE

Did the activities of petitioner, Francis M. Buresh, as an engineer engaged in the design of textile machinery, products and processes during the years 1968 and 1969 constitute the practice of a profession?

FINDINGS OF FACT

1. Petitioner, Francis M. Buresh, and his wife, filed New York State income tax resident returns for the years 1968 and 1969. He listed his occupation on said returns as "textile consultant". He did not file New York State unincorporated business tax returns for said years.

2. On September 27, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Francis M. Buresh, imposing unincorporated business tax upon the income received by him from his business activities during the years 1968 and 1969. It also imposed a penalty upon him for failure to file unincorporated business tax returns for said years. In accordance with the aforementioned Statement, it issued a Notice of Deficiency in the sum of \$2,683.72.

3. During the years 1968 and 1969, petitioner, Francis M. Buresh, received business income as an engineer engaged in the design of textile machinery, products and processes in the field of nonwoven fabrics. His business activities consisted primarily of the establishment of manufacturing plants for nonwoven fabrics, requiring extensive utilization of his training, experience and education in the field of engineering. Most of the plants which Mr. Buresh established utilized machinery which he had engineered and designed, and upon which he held patents.

4. Petitioner, Francis M. Buresh, received a Liberal Arts degree from Coe College in 1930. He received a B.S. in mechanical engineering from Massachusetts Institute of Technology in 1934.

5. From 1934 to 1943 petitioner, Francis M. Buresh, worked as a tire development and research engineer for Firestone and U.S. Rubber companies in Akron, Ohio, Chicopee Falls, Massachusetts and Detroit, Michigan. From 1943 to the present he has worked as a textile research and development engineer in the field of nonwoven fabrics.

6. The first Random Web Machine, which is now at the Smithsonian Institute, was developed, built and tested in petitioner, Francis M. Buresh's home workshop during the years 1945 through 1946 and is now covered by U.S. Patent 2,451,913, dated October 19, 1948. He has been granted as inventor and co-inventor six U.S. patents covering the Random Web Machine and Process. All of these patents are assigned to Curlator Corporation, Macedon, New York, with whom he has worked in some capacity almost continuously since 1946. Mr. Buresh has engineered and started up numerous complete nonwoven fabric manufacturing lines in the U.S.A., Europe, South America, Central America, India and Australia for textile, paper, chemical and synthetic fiber companies. Besides the work on production lines, he has developed or aided in the development of many new

nonwoven products and acted as a technical advisor for a number of firms on machine, product and patent matters. Mr. Buresh also authored the first technical book on nonwoven fabrics which was published by Reinhold in 1962.

7. Petitioner, Francis M. Buresh's income as an engineer engaged in the design of textile machinery, products and processes during the years 1968 and 1969 was derived solely from personal services rendered. Capital was not a material income producing factor.

CONCLUSIONS OF LAW

A. That the activities of petitioner, Francis M. Buresh, as an engineer engaged in the design of textile machinery, products and processes during the years 1968 and 1969 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 the petition of Francis M. Buresh is granted, and the Notice of Deficiency, issued September 27, 1971, is cancelled.

DATED: Albany, New York
December 29, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER