

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF JOHN M. GRANEY

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 (x) 23 of the :  
Tax Law for the Year(s) 1969, 1970, :  
1971 and 1972.

State of New York  
County of Albany

MARY LOU SAMUELS, 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 1st day of April, 1976, she served the within  
Notice of Decision ~~(xxx) Decision~~ by (certified) mail upon Estate of John M.  
Graney ~~(representative of)~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: John M. Graney Estate  
c/o Jean Graney, Exec.  
437 Drury Lane  
Wyckoff, New Jersey 07401  
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)~~  
~~xxx~~ 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

1st day of April, 1976

Janet Mack

Marylou Samuels

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF JOHN M. GRANEY

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) 1969, 1970 :  
1971 and 1972.

State of New York  
County of Albany

MARY LOU SAMUELS, 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 1st day of April, 1976, she served the within  
Notice of Decision ~~(on Determination)~~ by (certified) mail upon Emanuel G. Demos, Esq.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Emanuel G. Demos, Esq.  
c/o White & Case  
14 Wall Street  
New York, New York 10005  
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

1st day of April, 1976

Janet Mack

Marylou Samuels



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

AREA CODE 518

**DATED:** Albany, New York  
**April 1, 1976**

STATE TAX COMMISSION  
HEARING UNIT

PAUL GREENBERG  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT  
MR. COBURN  
MR. LEISNER

(518) 457-3850

STATE TAX COMMISSION

**John M. Graney Estate**  
**c/o Jean Graney, Exec.**  
**437 Drury Lane**  
**Wyckoff, New Jersey 07401**

**Dear Ms. Graney:**

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

Please take further notice that pursuant to  
Section ~~601~~ **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**  
**SUPERVISING TAX**  
**HEARING OFFICER**

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ESTATE of JOHN M. GRANEY	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Unincorporated	:	
Business Tax under Article 23 of the	:	
Tax Law for the Years 1969, 1970,	:	
1971 and 1972.	:	

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A petition on behalf of the Estate of John M. Graney, c/o Jean Graney, Executrix, 437 Drury Lane, Wyckoff, New Jersey 07401, was filed for redetermination of a deficiency or for a refund of unincorporated business tax under Article 23 of the Tax Law for the years 1969, 1970, 1971 and 1972. (File No. 2-29003601.)

A formal hearing was held before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 17, 1975, at 3:00 P.M. Petitioners appeared by White & Case, Esqs., (Emanuel G. Demos, Esq., of counsel). The Income Tax Bureau appeared by Peter J. Crotty, Jr., Esq., (Alexander Weiss, Esq., of counsel).

ISSUE

Was the income of the late John M. Graney, deceased, received as a labor relations consultant subject to the unincorporated business tax for the years 1969, 1970, 1971 and 1972.

FINDINGS OF FACT

1. The late John M. Graney, deceased, formerly resided at 437 Drury Lane, Wyckoff, New Jersey. He had filed timely income tax returns for the years 1969, 1970, 1971 and 1972 but did not file New York State unincorporated business tax returns for said years.

2. On January 28, 1974, the Income Tax Bureau issued a Statement of Audit Changes against the late John M. Graney, deceased, imposing unincorporated business tax upon his income received from White & Case, Esqs. for the years 1969, 1970, 1971 and 1972 and accordingly issued a Notice of Deficiency in the sum of \$7,501.65 less the estimated tax payments of \$1,584.17, leaving a balance due of \$5,917.48.

3. The late John M. Graney, deceased, had been associated with an engineering firm with expertness in the field of labor relations in the construction industry. He was retained by the law firm of White & Case, effective September 1, 1969, as a consultant to a newly formed organization known as Construction Years

Anti-Inflation Round Table, an unincorporated body, whose prime goal was to assist the law firm of White & Case in the advice to their construction industry clients on the problem of inflation. He was offered and accepted by letter of agreement, for an indefinite term at six thousand dollars per month as a consultant, on a full-time basis. He was to bill White & Case each month in advance for the sum of six thousand dollars and to bill them for disbursements incurred the previous month such as travel, entertainment, telephone tolls and other unusual expenses incurred. He hired his former secretary from his previous employment. He was also responsible for all office expenses and other normal costs. Relations with White & Case, through Roger Blough, Esq. were close, with daily discussions regarding his schedules for the day and what the job was ahead. He requested that decisions regarding policy matters and dates for meetings at various places throughout the country be made by this partner in White & Case, Roger Blough, Esq., who was also chairman of the Construction Years Anti-Inflation Round Table and for which he, Roger Blough, spent a considerable amount of time. Mr. Graney's compensation was not subject to any withholding income tax or social security payments. He had an employer identification number and properly withheld income tax on his secretary's salary. He had his own business stationery. He furnished his office with

furniture and equipment at 71 Broadway, New York, New York, costing \$6,896.48 and he depreciated same over the years to \$3,900 and he later turned it over to the Business Round Table, for which he was reimbursed. This occurred in January, 1973 when the Business Round Table organization succeeded to the previous named organization to which Mr. John M. Graney then became an employee.

4. During the four years of his association with the original Round Table organization, John M. Graney assisted in the preparation of documents to indicate the inflation problem and the necessity of improving practices in the construction industry, and visited various areas of the country assisting the industry with a fair amount of success. This earned him a monetary increase when the new organization was formed, and his status changed to that of an employee. He continued to work as an employee until January, 1974, when he passed away. The organizations he was allied to did not exercise any substantial supervision or control over his activities or techniques or over the time he devoted to his pursuits, during the years in question.

#### CONCLUSIONS OF LAW

A. That the income received by the late John M. Graney, deceased, during the years 1969, 1970, 1971 and 1972 constituted

income from his activities as a labor relations consultant and not compensation as an employee exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

B. That the aforesaid activities of the late John M. Graney, deceased, during the years in question constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of the Estate of John M. Graney is denied and the Notice of Deficiency issued January 28, 1974, is sustained.

DATED: Albany, New York  
April 1, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER