

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE L. INNES

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 (39) 23 of the
Tax Law for the Year(s) 1967, 1968, :
1969 and 1970

State of New York
County of Albany

Yvette Nackenson , 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 29 day of March , 1976, she served the within
Notice of Decision (~~on Redetermination~~) by (certified) mail upon George L. Innes

(~~representative of~~) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: George L. Innes
43 Prescott Avenue
Bronxville, New York 10708

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~~)
(~~XX~~) petitioner herein and that the address set forth on said wrapper is the last
known address of the (~~representative of~~) petitioner.

Sworn to before me this

29 day of March , 1976

Janet G. [Signature]

Yvette Nackenson [Signature]

STATE OF NEW YORK
STATE TAX COMMISSION

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of

GEORGE L. INNES

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OF NOTICE OF DECISION
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For a Redetermination of a Deficiency or
a Refund of Unincorporated Business :
Taxes under Article (23) 23 of the
Tax Law for the Year(s) 1967, 1968, :
1969 and 1970

State of New York
County of Albany

Yvette Nackenson , 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 29 day of March , 19 76, she served the within
Notice of Decision (~~for determination~~) by (certified) mail upon J. Arthur
McNamara, Esq. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: J. Arthur McNamara, Esq.
20 Broadway
Valhalla, New York 10595

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

29 day of March , 1976

J. T. Mack

Yvette Nackenson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER

(518) 457-3850

DATED: Albany, New York
March 29, 1976

George L. Innes
43 Prescott Avenue
Bronxville, New York 10708

Dear Mr. Innes:

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
SUPERVISING TAX

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

TA-1.12 (12/75)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
GEORGE L. INNES	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Years 1967, 1968, 1969 and 1970.	:	
	:	

Petitioner, George L. Innes, residing at 43 Prescott Avenue, Bronxville, New York 10708, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1967, 1968, 1969 and 1970. (File No. 0-64230427.) 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 2:00 P.M. Petitioner appeared by J. Arthur McNamara, Esq. The Income Tax Bureau appeared by Peter J. Crotty, Jr., Esq., (Alexander Weiss, Esq., of counsel).

ISSUES

I. Did George L. Innes' activities as a marketing consultant, during the years 1967, 1968, 1969 and 1970, constitute the practice of a profession?

II. Was petitioner, George L. Innes, an employee of C.H. Kline & Co., Inc. during 1967, 1968, 1969 and 1970?

III. If petitioner, George L. Innes, was carrying on an unincorporated business during 1967, 1968, 1969 and 1970, what portion of the income derived therefrom should be allocated to New York State?

FINDINGS OF FACT

1. Petitioner, George L. Innes, and his wife timely filed New York State income tax returns for the years 1967, 1968, 1969 and 1970. He did not file a New York State unincorporated business tax for said years.

2. On October 22, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, George L. Innes, imposing unincorporated business tax upon his income received as a consultant during the years 1967, 1968, 1969 and 1970, a penalty pursuant to section 685(a) of the Tax Law and interest. Accordingly, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$3,078.55.

3. Petitioner, George L. Innes, became associated in February, 1967, with C.H. Kline & Co., Inc., marketing consultants as a sub-contractor to do analysis and studies of specific technical markets for their clients. His study would include the feasibility

of the product under consideration, pricing of the product to be established and the technical performance required. A graduate of Harvard, he received a degree in chemistry. He did studies in the fields of agno-economics, several studies on agricultural trace elements and considerable work in the field of minerals, metals, and specialty chemicals. He is a member of the American Chemical Society and the Commercial Development Association.

4. Petitioner, George L. Innes, resided in Bronxville, New York, where he had an office and a phone. His listing cited him as a chemical consultant. His letterhead gave his name, address and description thereon as industrial market consultant. His agreement with the Charles H. Kline & Co., Inc., February 1967, referred to their relationship as independent contracting parties and under no circumstance was he to be considered an employee. Subsequent to the years in question he became a vice-president of this company. He was consulted by other firms during the years in issue. C.H. Kline & Co., Inc. contributed the greater share of his total income. He had a special room set aside at the Charles H. Kline & Co., Inc. as a place to work when he was not traveling. He was not charged rent for the room nor was his name on the door.

CONCLUSIONS OF LAW

A. That the activities of petitioner, George L. Innes, as an industrial marketing consultant during the years 1967, 1968,

1969 and 1970, although requiring special knowledge and experience, did not constitute 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 income received by petitioner, George L. Innes, from his activities as an industrial marketing consultant during the years 1967, 1968, 1969 and 1970 constituted income from said business 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.

C. That the aforesaid activities of petitioner, George L. Innes, during the years 1967, 1968, 1969 and 1970, 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.

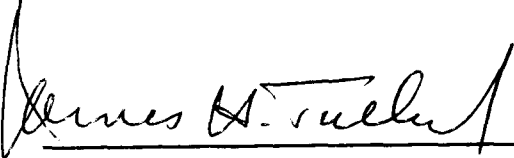
D. That, petitioner, George L. Innes, did not have a regular place of business outside of New York State during the years 1967, 1968, 1969 and 1970 and therefore, all his business income as a consultant including the income derived from consultations outside the State during said period was properly allocated to New York State in accordance with the meaning and intent of section 707(a) of the Tax Law.

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E. That the petition of George L. Innes is denied and the Notice of Deficiency issued April 10, 1972, is sustained.

DATED: Albany, New York
March 29, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER