

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

BRIAN A. JONES

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business Taxes :
Taxes under Article(s) 23 of the :
Tax Law for the Year(s) or Period(s) 1969 :

State of New York
County of Albany

MARYLOU 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 29th day of November, 1976, she served the within
Notice of Decision by (certified) mail upon Brian A. Jones
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Brian A. Jones
10 Clinton Street
Brooklyn, New York 11201
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative~~
~~of the)~~ 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 November, 1976.

Janet Mack

Marylou Samuels



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

November 29, 1976

TELEPHONE: (518) **457-3850**

Mr. Brian A. Jones
10 Clinton Street
Brooklyn, New York 11201

Dear Mr. Jones:

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

Please take further notice that pursuant to
Section(s) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia
Supervisor of
Small Claims

Enc.

cc: ~~Petitioner's Representative:~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
BRIAN A. JONES	:	
for a Redetermination of a Deficiency	:	DECISION
or for Refund of Unincorporated	:	
Business Taxes under Article 23 of	:	
the Tax Law for the Year 1969.	:	

Petitioner, Brian A. Jones, 10 Clinton Street, Brooklyn, New York 11201, filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for 1969. (File No. 9-34217312).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on May 24, 1976 at 3:00 P.M. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter J. Crotty, Esq., (Frank Levitt, Esq., of counsel).

ISSUE

Whether or not services rendered as a consulting actuary constitute the practice of a profession and as such are not subject to New York State Unincorporated Business Tax.

FINDINGS OF FACT

Petitioner, Brian A. Jones, timely filed a personal income tax return for 1969. He did not file an unincorporated business

tax return. Upon audit, the Income Tax Bureau issued a Statement of Audit Changes whereby it held that his income from activities as an actuarial consultant was subject to unincorporated business tax. Accordingly, a Notice of Deficiency dated August 30, 1971 was issued in the amount of \$504.68.

Petitioner, Brian A. Jones, was a consulting actuary engaged in pension valuation for many principals. On his personal income tax return he reported all his income as business income. He paid estimated tax and reported no tax withheld. There were no withholding statements attached to his return.

Petitioner was a member of the American Academy of Actuaries. The American Academy of Actuaries is a nonprofit corporation organized in Illinois for the purpose of promoting and upgrading the actuary as a true professional.

The educational requirement for membership is a college major in life, health insurance and pensions or property and casualty. A test may also be required in such subjects as general mathematics, probability and statistics, numerical analysis and compound interest.

CONCLUSIONS OF LAW

That the New York State Educational Department does not require license for actuaries the occupational activities of the petitioner were not engaged in under any professional license issued by the State of New York and that no special educational degree is required for the occupation of actuary.

That petitioner, Brian A. Jones, failed to show that his pension valuation services were above and beyond merely undertaking to advise management as to its business or industrial affairs.

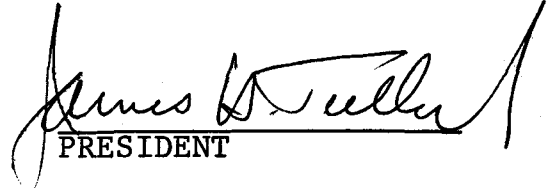
That petitioner's activities are carried on in the field of business and do not constitute the practice of a separate profession.

That petitioner's activities constitute the carrying on of a business under section 703 (a) of the Tax Law as determined in prior court decisions.

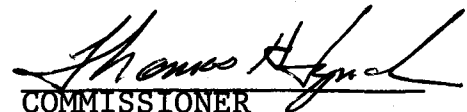
That the petition of Brian A. Jones is denied and the Notice of Deficiency is sustained.

DATED: Albany, New York
November 29, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER