

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOEL ANNIS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article (x) 23 of the :
Tax Law for the Year(s) ~~or Period(s)~~ :
1968, 1969 and 1970.

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 25th day of January , 19 77, he served the within
Notice of Decision by (certified) mail upon Joel Annis
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Joel Annis
7 Highwood Road
East Norwich, New York 11732
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)~~
~~(representative of)~~ 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

25th day of January , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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He is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 25th day of January , 1977, He served the within
Notice of Decision by (certified) mail upon John R. Serpico

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

John R. Serpico, Esq.
186 Joralemon 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.

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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

January 25, 1977

TELEPHONE: (518) **457-1723**

Mr. Joel Annis
7 Highwood Road
East Norwich, New York 11732

Dear Mr. Annis:

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

Please take further notice that pursuant to
Section(8) **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. Puccio
Supervisor of Small
Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
JOEL ANNIS	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1968, 1969 and 1970.	:	

Petitioner, Joel Annis, 7 Highwood Road, East Norwich, New York 11732, has filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1968, 1969 and 1970 (File No. 0-55392741). A small claims hearing was held before Philip Mercurio, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 7, 1976. Petitioner appeared by John R. Serpico, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

ISSUE

Whether the activities performed by the petitioner, Joel Annis, as a technical writer for the years 1968, 1969 and 1970, constitute a profession specifically exempt from unincorporated business tax?

FINDINGS OF FACT

1. Petitioner, Joel Annis, and his wife filed New York State income tax returns for the years 1968, 1969 and 1970. He did not file New York State unincorporated business tax returns for said years.

2. On September 25, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Joel Annis, imposing unincorporated business tax upon income received by him from his activities as a technical writer during the years 1968, 1969 and 1970. The Statement of Audit Changes included an adjustment pertaining to the personal income tax portion of the petitioner's return, which was not contested by the petitioner, Joel Annis. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,286.31.

3. Petitioner, Joel Annis, was a technical writer during the years 1968, 1969 and 1970. His income as a technical writer was derived from writing technical manuals regarding instructions, installation, operation and maintenance of military equipment. The petitioner, Joel Annis, is hired on a subcontract basis by a manufacturer of military equipment to prepare and write these manuals for their equipment. The petitioner, on occasion, is retained by the government's military services to prepare and write these manuals.

4. The petitioner, Joel Annis, received a bachelor's degree in English in 1949 and later attended graduate school at New York University majoring in English. He did not receive an advanced degree. While in military service, the petitioner was trained by the military in electronics. The petitioner, Joel Annis, does not have an engineering degree.

5. The technical manuals which the petitioner, Joel Annis, writes for these manufacturers are usually required as an inherent part of the contract with the armed services.

6. The petitioner, Joel Annis, does not employ any assistants and capital was not a material income producing factor.

CONCLUSIONS OF LAW

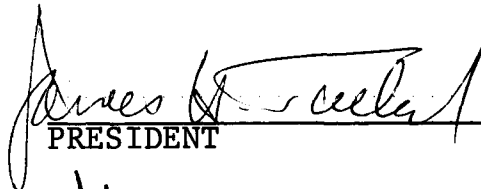
A. That the income received by petitioner from his activities as a technical writer during the years 1968, 1969 and 1970 constituted income from his regular course of business and not compensation as a professional exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law.

B. That the activities of petitioner, Joel Annis, during the years 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 section 703 of the Tax Law.

C. That the petition of Joel Annis is denied and the
Notice of Deficiency issued September 25, 1972 is sustained.

DATED: Albany, New York
January 25, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

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Frank J. Puccia
Frank J. Puccia
Supervisor of Small
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Taxing Bureau's Representative:

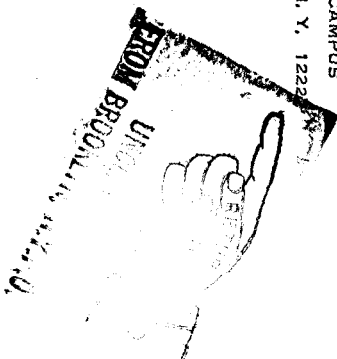
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STATE OF NEW YORK

Department of Taxation and Finance
TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 1222



FEB 4

John R. Serpico, Esq.
186 Joralemon Street
Brooklyn, New York 11201

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CERTIFIED

No. 400445

MAIL



NL

27/1/77

Bolton

NAME _____
1st Notice _____
2nd Notice _____
Return _____
JAN 27 1977

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
JOEL ANNIS	:	
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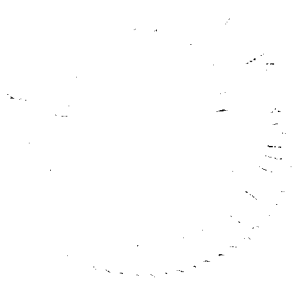
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DATED: Albany, New York
January 25, 1977

STATE TAX COMMISSION


James H. Seelye
PRESIDENT

William K. Korman
COMMISSIONER

Thomas H. Lynch
COMMISSIONER