

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ANNABEL KEELY

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) ~~xxxxxx~~ 1969 :  
and 1970.

State of New York  
County of Albany

John Huhn , being duly sworn, deposes and says that  
~~she~~ she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 16th day of March , 1978, ~~she~~ she served the within  
Notice of Decision by (certified) mail upon Annabel Keely

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Annabel Keely  
140 E. 81st St.  
New York, NY 10028

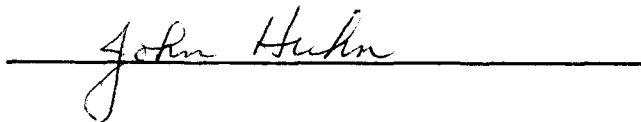
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~  
~~xxxxxx~~) 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

16th day of March , 1978.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ANNABEL KEELY

AFFIDAVIT OF MAILING

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

State of New York  
County of Albany

John Huhn , 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 16th day of March , 19 78, she served the within  
Notice of Decision by (certified) mail upon Stanley Roth, CPA

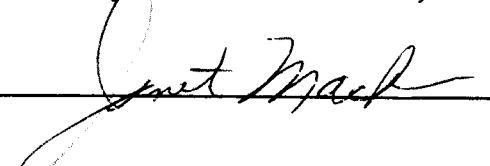
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Stanley Roth, CPA  
501 Fifth Ave.  
New York, NY 10017

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

16th day of March , 19 78

  
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STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

**March 16, 1978**

**Annabel Keely  
140 E. 81st St.  
New York, NY 10028**

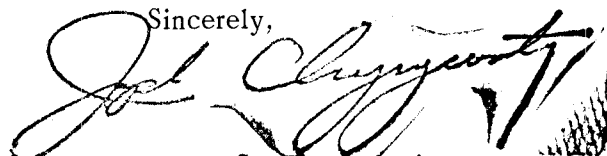
**Dear Ms. Keely:**

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **722** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

  
**Joseph Chyrywat  
Hearing Examiner**

cc: Petitioner's Representative  
Taxing Bureau's Representative

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
ANNABEL KEELY : DECISION  
for Redetermination of a Deficiency or :  
for Refund of Unincorporated Business :  
Tax under Article 23 of the Tax Law :  
for the Years 1969 and 1970. :  
:

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Petitioner, Annabel Keely, 140 East 81st Street, New York, New York 10028, 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 1969 and 1970 (File No. 16619).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on May 27, 1977 at 1:15 P.M. The petitioner appeared with Stanley Roth, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether the activities of petitioner during the years 1969 and 1970 constituted the practice of a profession exempt from unincorporated business tax.

FINDINGS OF FACT

1. Petitioner, Annabel Keely, filed New York State income tax resident returns for the years 1969 and 1970. She did not file unincorporated business tax returns for said years.

2. On June 28, 1976, the Income Tax Bureau issued a Notice of Deficiency against petitioner, Annabel Keely, for the years 1969 and 1970, imposing unincorporated business tax on the grounds that her activities as a research designer constituted the carrying on of an unincorporated business.

3. During the years in issue, petitioner, Annabel Keely, was a self-employed individual, conducting business under the name and style of Ideational Research. She was a consultant in qualitative research and was involved in the application of research data to problems in the generation and development of new products, including marketing strategy. Her activities also included market-structure studies which would indicate maximum opportunity for the allocation of resources.

4. Petitioner, Annabel Keely, is a graduate of the Chicago Arts Institute and holds a B.F.A. degree in art and design. In addition, she holds a Master's degree in anthropology from New York University.

5. Petitioner, Annabel Keely, was renowned in the marketing research field and was a frequent contributor of articles to professional publications.

6. Petitioner, Annabel Keely, was a pioneer in her field in that she successfully utilized the behaviorial and social sciences to develop concepts in marketing research that could be of benefit to her clients.

CONCLUSIONS OF LAW

A. That the word "profession" implies attainments in professional knowledge in some department of science or learning and not mere skill and application of knowledge. The performing of services dealing with the conduct of business itself, including the promotion of sales or services of such business and consulting services, does not constitute the practice of a profession, even though the services involve the application of a specialized knowledge. Although the petitioner's activities as a market research consultant require special knowledge and skills, the application and nature of these attributes do not constitute a profession within the meaning and intent of section 703(c) of the Tax Law.

B. That the activities of petitioner, Annabel Keely, during the years 1969 and 1970 constituted the carrying on of an unincorporated business in accordance with the meaning and intent of section 703 of the Tax Law, and that the income derived therefrom was subject to the imposition of unincorporated business tax within the meaning and intent of section 701 of the Tax Law.

C. That the petition of Annabel Keely is denied and the Notice of Deficiency issued June 28, 1976 in the sum of \$1,871.20 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

March 16, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER