

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Laszlo & Agnes Czirjak : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law for :
the Years 1973 & 1974. :

State of New York
County of Albany

David Parchuck, 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 11th day of February, 1983, he served the within notice of Decision by certified mail upon Laszlo & Agnes Czirjak, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Laszlo & Agnes Czirjak
44 Shady Ln.
Greenwich, CT 06830

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
11th day of February, 1983.

David Parchuck

David A. Hegdorn

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

February 11, 1983

Laszlo & Agnes Czirjak
44 Shady Ln.
Greenwich, CT 06830

Dear Mr. & Mrs. Czirjak:

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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LASZLO CZIRJAK AND AGNES CZIRJAK	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Tax under	:	
Article 23 of the Tax Law for the Years 1973	:	
and 1974.	:	

Petitioners, Laszlo Czirjak and Agnes Czirjak, 44 Shady Lane, Greenwich, Connecticut 06830, 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 1973 and 1974 (File No. 29334).

A small claims hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 21, 1982 at 9:15 A.M. Petitioner Laszlo Czirjak appeared pro se. The Audit Division appeared by Ralph J. Vecchio, Esq. (James F. Morris, Esq., of counsel).

ISSUE

Whether petitioner Laszlo Czirjak's activities during the years at issue constituted the practice of a profession of which the income derived therefrom is exempt from the imposition of unincorporated business tax.

FINDINGS OF FACT

1. Laszlo Czirjak and Agnes Czirjak timely filed joint New York State Income Tax Nonresident returns for the years 1973 and 1974 whereon Laszlo Czirjak (hereinafter petitioner) reported business income of \$22,190.60 for 1973 and \$22,943.57 for 1974 derived from his occupation described as "Economist".

Petitioner did not file an unincorporated business tax return for either year at issue.

2. On September 6, 1977 the Audit Division issued a Statement of Audit Changes to petitioners wherein it held "Since your business activities as an economist do not constitute a profession contemplated under the statute, income derived therefrom is subject to the unincorporated business tax." Accordingly, a Notice of Deficiency was issued against petitioners on January 30, 1980 asserting unincorporated business tax of \$1,435.91, plus penalty and interest of \$962.81 for a total due of \$2,398.72. Said penalty was issued pursuant to section 685(a)(1) of the Tax Law for failure to file unincorporated business tax returns for the years at issue.

3. The unincorporated business tax was asserted solely on the reported business income of petitioner. The wage income derived by Agnes Czirjak is not at issue herein.

4. Petitioner contended that during the years at issue the activities he was engaged in were those of a "writer" and as such, the income derived therefrom is exempt from the imposition of unincorporated business tax pursuant to section 703(c) of the Tax Law.

5. During the early part of 1973, petitioner earned approximately \$1,000.00 income from an undisclosed source. The balance of petitioner's income for 1973 and the full taxable year 1974 was derived exclusively from L.W. International Financial Research, Inc. (L.W. International).

6. Petitioner began his affiliation with L.W. International in or about March, 1973. He was engaged to write studies and articles dealing with economics and political science. He was compensated on a negotiated fee basis for each assignment. L.W. International provided petitioner with an outline of areas to

be addressed pursuant to its clients' requests and made researchers available for petitioner's use.

7. Petitioner was initially educated in Hungary and received a Ph.D from Technical University in 1942. Subsequently, he received a Ph.D from Columbia University in 1965. Both degrees were earned in the field of economics.

8. In 1970, petitioner was a contributor to a study entitled "Economic Developments in Countries of Eastern Europe, A Compendium Of Papers submitted to the Subcommittee on Foreign Economic Policy of the Joint Economic Committee, Congress of the United States". Petitioner testified that he was a contributor to a similar type study in 1974. In 1973, petitioner co-authored the "Occasional Papers of the Research Project on National Income in East Central Europe". A comparison of Hungarian agricultural and nonagricultural incomes.

9. Prior to the years at issue, petitioner has authored and co-authored numerous books and articles published by Columbia University Press or federal government agencies.

10. Petitioner is a member of the American Economic Association.

11. Although petitioner designates his activities as those of a writer, a letter submitted by him on April 8, 1977, with respect to the years at issue, states "I am rendering only personal services as a professional economist".

12. A license was not required in order to engage in the type of activities in which petitioner did in 1973 and 1974. Petitioner's activities were not governed by a code of ethics or standards of conduct.

13. Petitioner's gross income was derived solely from personal services which he rendered. Capital was not a material income producing factor.

CONCLUSIONS OF LAW

A. That petitioner's writing activities were incidental to his primary activities as an economist and served basically as a communicative avenue for

reporting the facts determined and conclusions drawn in his economic study assignments. As such, petitioner's writing activities do not qualify for exemption under section 703(c) of the Tax Law.

B. That petitioner's services for L.W. International during the years at issue dealt with the conduct of business itself. Accordingly, even though petitioner's services involved the application of a specialized knowledge, they do not constitute the practice of a profession within the meaning and intent of section 703(c) of the Tax Law.

C. That the aforesaid activities of petitioner constituted the carrying on of an unincorporated business pursuant to section 703(a) of the Tax Law. Accordingly, the income derived therefrom is subject to the imposition of unincorporated business tax pursuant to section 701(a) of the Tax Law.

D. That Agnes Czirjak's name is to be removed from the Notice of Deficiency at issue since she was not engaged in an unincorporated business during the years 1973 and 1974.

E. That except as provided in Conclusion of Law "D" supra, the petition of Laszlo Czirjak and Agnes Czirjak is denied and the Notice of Deficiency dated January 30, 1980 is sustained together with such additional penalty and interest as may be lawfully owing.

DATED: Albany, New York

FEB 11 1983

STATE TAX COMMISSION

Robert W. Burchard
ACTING PRESIDENT

Francis R. Koenig
COMMISSIONER

[Signature]
COMMISSIONER