

STATE OF NEW YORK  
STATE TAX COMMISSION

*Bamman*  
*UBT*  
*1970*  
*Leeds bank*  
*cctH*  
*#499-258*

In the Matter of the Petition

of

ERNEST A. BAMMAN

For a Redetermination of a Deficiency or  
a Refund of Unincorporated Business  
Taxes under Article(~~x~~) 23 of the  
Tax Law for the (Year(s) 1962, 1963, :  
and 1964

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

State of New York  
County of Albany

Margaret Wood , 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 10th day of March , 19 70, she served the within  
Notice of Decision (~~xxx xxxxxxxxxx~~) by (certified) mail upon Ernest A.

Bamman (~~representative of~~) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

Ernest A. Bamman  
465 Broadway, Apt. 7AB  
Hastings-on-Hudson, New York 10706

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

10th day of March , 1970.

*Janet Whigley*

*Margaret Wood*

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition of :  
ERNEST A. BAMMAN :  
For Redetermination of a Deficiency or : DECISION  
for Refund of Unincorporated Business  
Taxes under Article 23 of the Tax Law :  
for the Years 1962, 1963 and 1964. :  
:

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Mr. Ernest A. Bamman has filed a petition for redetermination of a deficiency or for refund of Unincorporated Business Taxes for the years 1962, 1963 and 1964.

A formal hearing was held in the offices of the State Tax Commission in the City of New York on October 30, 1969 before Lawrence A. Newman, Hearing Officer. The petitioner appeared and testified. The Income Tax Bureau was represented by Edward H. Best, Esq., (Albert J. Rossi, Esq. of Counsel).

FINDINGS OF FACTS:

1. Mr. Ernest A. Bamman, the petitioner, has timely filed New York State Income Tax Resident Returns for the years 1962, 1963 and 1964.

The petitioner did not file Unincorporated Business Tax Returns for the years 1962, 1963 and 1964.

2. On October 17, 1966, the Income Tax Bureau issued a notice of deficiency under file number 26094171 for the years 1962, 1963 and 1964 in the amount of \$749.52 and statutory interest.

The Income Tax Bureau had based this notice of deficiency on its determination that the income derived by the petitioner from his activities as a "Public Utilities Consultant" was subject to the Unincorporated Business Tax.

3. The petition for redetermination of the deficiency or for refund was timely filed.

4. The petitioner was graduated from Cornell University with the degree of Mechanical Engineer in 1926. The petitioner also passed the written examinations for certified public accounting in 1937, but is not licensed or registered in either profession.

5. The petitioner was employed by the Public Service Commission of the State of New York from 1934 to 1961, in progressively higher positions as accountant, rate case analyst, hearing examiner, supervising hearing examiner, and director of the Utilities Division.

6. After his retirement from State Service in 1961, the petitioner was retained periodically by the Public Service Commission, and appeared before regulatory agencies, as a consultant, furnishing analyses and advice on complex and technical subjects relating to regulatory matters, particularly utility rate proceedings.

7. The petitioner's specialized and superior knowledge of the problems and practices of public utility regulation is recognized and appreciated by the members and employees of the Public Service Commission of New York State, by the members and officers of the National Association of Regulatory Commissioners, and by the representatives of regulated utility companies.

8. The petitioner was not engaged in the practice of professional engineering, or in the practice of public accountancy.

#### DECISION

A. The activities of the petitioner, Mr. Ernest A. Bamman, described as "Public Utilities Consultant" do not constitute the practice of a profession within the meaning and intent of Article 23 of the Tax Law.

B. The business activities of the petitioner as a "Public Utilities Consultant" during the years 1962, 1963 and 1964,

constituted the carrying on of an unincorporated business, and the resulting net income was subject to the unincorporated business tax.

C. The deficiency issued against the petitioner dated October 17, 1966 under file numbered 26094171 for the years 1962, 1963 and 1964 is correct and is sustained.

D. Pursuant to Section 684 of the Tax Law, interest shall be added to the total amount due until date of payment.

DATED: Albany, New York

March 9, 1970

STATE TAX COMMISSION

*Norman Hallman*  
PRESIDENT

*Bruce Mouley*  
COMMISSIONER

*Milton Krone*  
COMMISSIONER