

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-H-80-(241)-I
Income Tax
August 26, 1980

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. I800408B

On April 8, 1980, a Petition for Advisory Opinion was received from Mr. Jack Segura, 628 Gateway, Valley Cottage, New York 10989.

The issue is whether the activities of Petitioner as an editor and writer constitute the practice of a profession exempt from the Unincorporated Business Income Tax pursuant to section 703(c) of the Tax Law and 20 NYCRR 203.11(b)(1)(i).

Mr. Segura writes, edits, and provides counseling, in technology and sciences, specialized medicine, and technical and medical language translations.

Mr. Segura attended Pratt Institute in Brooklyn, New York, where he studied an Electrical Engineering - Communications option for four years at night. He also studied Radio and Television at RCA Institute at night for two years. He did not receive any higher educational degree.

Less than one-tenth of Mr. Segura's business income is derived from technical and medical translations. More than 80 percent of his gross income is derived from personal services including writing, editing, interviews, symposiums, journal articles, movies, cassettes, and translations.

Capital is not a material income producing factor.

20 NYCRR 203.11(b)(1)(i) states in part: "...the term other profession includes any occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used by its practical application to the affairs of others, either advising, guiding or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word profession implies attainments in professional knowledge as distinguished from mere skill and the application of knowledge to uses for others as a vocation...."

Mr. Segura has not shown that his activities as an editor and writer are more than mere skill and the application of knowledge to uses for others as a vocation. Further, his vocation is not one in which he has a professed knowledge gained by a prolonged course of specialized instruction and study. Consequently, Petitioner's business activities cannot be considered as the practice of a profession exempt from the New York State Unincorporated Business Income Tax.

Dated: June 30, 1980

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau