

STATE OF NEW YORK  
STATE TAX COMMISSION .

In the Matter of the Petition

of

JOSEPH W. SENER and CLARA H. SENER

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article 22 of the  
Tax Law for the Year(s) ~~on Period(s)~~  
1960, 1961 and 1962.

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Catherine Steele, 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 1st day of October, 1976, she served the within Notice of Decision by (certified) mail upon Joseph W. Sener and Clara H. Sener (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Joseph W. Sener  
22 Light Street  
Baltimore, Maryland 21202  
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

1st day of October, 1976.

Catherine Steele

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION .

In the Matter of the Petition

of

AFFIDAVIT OF MAILING

JOSEPH W. SENER and CLARA H. SENER  
For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(x) 22 of the :  
Tax Law for the Year(s) ~~xx Period(s)~~ :  
1960, 1961 and 1962.

State of New York  
County of Albany

Catherine Steele , 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 1st day of October , 1976 , she served the within  
Notice of Decision by (certified) mail upon Howard O. Colgan, Jr., Esq.  
Robert Franklin, Esq.  
Horace Newman, Esq.  
(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Howard O. Colgan, Jr., Robert Franklin & Horace Newman, Esqs.  
Milbank, Tweed, Hadley & McCloy  
1 Chase Manhattan Plaza  
New York, New York 10005  
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

1st day of October , 1976.

Catherine Steele

Janet Mack



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

October 1, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. Joseph W. Sener  
22 Light Street  
Baltimore, Maryland 21202

Dear Mr. & Mrs. Sener:

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

Please take further notice that pursuant to  
Section(x) **690** 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,

**Paul E. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
	:	
of	:	
	:	
JOSEPH W. SENER and CLARA H. SENER	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1960, 1961 and 1962.	:	

---

•  
Petitioners, Joseph W. Sener and Clara A. Sener, residing at 22 Light Street, Baltimore, Maryland 21202, filed a petition for redetermination of a deficiency issued under date of April 13, 1965, in personal income tax for the years 1960, 1961 and 1962 in the amount of \$1,050.80, plus interest of \$168.36, for a total of \$1,219.16.

A hearing was duly held on May 19, 1970, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Lawrence Newman, Hearing Officer. Howard O. Colgan, Jr., Esq., Robert Franklin, Esq., and Horace Newman, Esq., all of Milbank, Tweed, Hadley and McCloy represented the petitioners. Edward H. Best, Esq., appearing by Solomon Sies, Esq., represented the Income Tax Bureau.

The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is the proper method of allocating primary or underwriting profits by petitioner, Joseph W. Sener's partnership, John C. Legg & Company, an underwriter and dealer in securities, when as part of a public offering the partnership as member of an underwriting syndicate managed by a New York based underwriter enters into an underwriting commitment for the purchase of securities of an issuing corporation, and the resulting effect of such allocation on petitioners, Joseph W. Sener's and Clara H. Sener's personal income tax liability.

FINDINGS OF FACT

1. Petitioners, Joseph W. Sener and Clara H. Sener, filed New York State nonresident income tax returns for the years 1960, 1961 and 1962.

2. On April 13, 1965, the Income Tax Bureau issued a Notice of Deficiency against petitioners, Joseph W. Sener and Clara H. Sener, for the years 1960, 1961 and 1962. Said Notice of Deficiency was based on petitioner, Joseph W. Sener's share, as a partner, of partnership income from primary or underwriting profits earned by John C. Legg & Company during the years in issue. Since the disposition of Joseph W. Sener's and Clara H. Sener's petition is contingent on the State Tax Commission's determination in the

Petition of John C. Legg & Company, the "Findings of Fact" in said decision are hereby adopted.

CONCLUSIONS OF LAW

A. That the "Conclusions of Law" stated in the State Tax Commission's decision in the Petition of John C. Legg & Company, a copy of which is attached hereto, are hereby adopted.


B. That petitioners, Joseph W. Sener and Clara H. Sener, are liable for personal income tax due on petitioner, Joseph W. Sener's proportionate share of the partnership, John C. Legg & Company's primary or underwriting profits allocated to New York State for the years 1960, 1961 and 1962, in the State Tax Commission decision in the Petition of John C. Legg & Company.

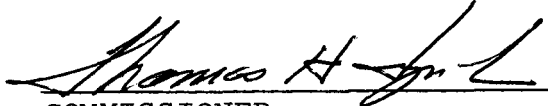
C. That the deficiency is hereby affirmed and the petition accordingly denied.

DATED: Albany, New York  
October 1, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER