

BUREAU OF LAW

MEMORANDUM

*Unincorporated Business Tax
Determinations A-Z
Coren, Arnold S.
and Miriam*

TO: Commissioners Murphy, Palestin and Macduff

FROM: Vincent P. Molineaux, Hearing Officer

SUBJECT: Arnold S. and Miriam Coren
Application for revision or refund

A hearing on the above matter was held before me as hearing officer at 80 Centre Street, New York, N. Y. The appearances and the evidence produced were shown in the stenographic minutes and exhibits submitted herewith. The question at issue is whether certain income, claimed as salary, is subject to unincorporated business tax.

Taxpayer is an insurance broker with income of up to \$20,000 a year from that business which he reports for unincorporated business tax. He also reports for unincorporated business tax real estate management fees of \$500, \$1,000 and \$1,000, respectively, for the three years under review. This management income is from a Harold Litwin whom petitioner designates as his employer. Litwin appeared to be engaged in wide real estate enterprises and he and petitioner shared a suite of offices at 156 East 52nd Street, New York, N. Y.

Petitioner reports salary income from Winpark Realty Corporation and Queens Garage Corporation and does not include it for unincorporated business tax. The assessments in question are for unincorporated business tax on this additional income.

The work which petitioner performs for Winpark Realty, of which Litwin, named above, is principal, is similar to the work for which he reports real estate management fees from other Litwin corporations.

Petitioner and his wife are the only stockholders of Queens Garage Corporation which holds a lease on the garage section of an apartment house in Queens which is also owned by Winpark Realty Corporation. The income of the corporation is the difference between the rental received for stalls and the rental paid under an unwritten lease. Virtually all of this income is paid to petitioner as salary.

In my opinion the income from the two corporations is so closely related to the real estate management business as to "constitute receipts of a business regularly carried on" by petitioner and must be included in unincorporated business tax income as provided in Section 386 of the Tax Law and Section 702 hereof.

For the foregoing reasons I recommend that the determination of the State Tax Commission denying the application be sustained in the form submitted herewith.

/s/ VINCENT P. MOLINEAUX
Hearing Officer

VPN:afw
Enc.

June 29, 1966

Approved MS

Approved SH

(September 14, 1966)

STATE OF NEW YORK
STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION :
OF :
ARNOLD S. AND MIRIAM COREN :
FOR REVISION OR REFUND OF UNINCORPORATED :
BUSINESS TAXES UNDER ARTICLE 18-A OF THE :
TAX LAW FOR THE YEARS 1958 AND 1959 AND :
ARTICLE 23 OF THE TAX LAW FOR THE YEAR :
1960 :
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Arnold S. and Miriam Coren, the taxpayers herein, having filed application for revision or refund of unincorporated business taxes assessed under Article 18-A of the Tax Law for the years 1958 and 1959 and Article 23 of the Tax Law for the year 1960 and a hearing having been held in connection therewith before Vincent P. Molineaux, Hearing Officer for the Department of Taxation and Finance at 80 Centre Street, New York, N. Y., at which hearing the petitioner, Arnold S. Coren, appeared personally and was represented by Harry T. Schern of David S. Fisch and Co., Certified Public Accountants, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers Arnold S. and Miriam Coren filed unincorporated business tax returns for the years 1958, 1959 and 1960 reporting thereon income received by Arnold S. Coren in excess of \$11,000 for each of the years involved from commissions earned by him as a licensed insurance broker and business income from real estate management fees in the amount of \$500 for the year 1958 and in the amounts of \$1,000 from the years 1959 and 1960 received from Litwin and Epstein joint ventures; that the real estate management fees were paid to him in connection with the

collection of rents, negotiations of leases and dealing with maintenance personnel.

(2) That the taxpayers failed to report on the unincorporated business tax returns certain income received by Arnold S. Coven which was reported as salary income on the personal income tax returns for the above years as follows:

	<u>1958</u>	<u>1959</u>	<u>1960</u>
Winpark Realty Corporation	\$5,200.00	\$5,200.00	\$5,200.00
Queens Garage Corporation	<u>1,380.00</u>	<u>1,035.00</u>	<u>840.00</u>
	<u>\$6,580.00</u>	<u>\$6,235.00</u>	<u>\$6,040.00</u>

(3) That unincorporated business tax assessments were issued in the amount of \$168.72 for the year 1958 (Assessment No. B-992704 dated December 12, 1961) in the amount of \$179.41 for the year 1959 (Assessment No. B-992817 dated December 12, 1961), and in the amount of \$193.28 for the year 1960 (Assessment No. B-993474 dated November 27, 1962) on the ground that the reported salary income was additional business income subject to unincorporated business taxes.

(4) That the taxpayer had an office in a building owned by Winpark Realty Corporation for which the taxpayer paid no rent, but which was used by him in the conduct of his business; that the aforesaid Mr. Litwin, a member of the joint venture from whom management fees were reported, was an officer of Winpark Realty Corporation; that Winpark Realty Corporation leased to Queens Garage Corporation a garage at a monthly rental of \$250; that in turn Queens Garage Corporation sublet 20 or 30 stalls in the garage, receiving rental income therefrom; that both taxpayers, husband and wife are the sole stockholders of the corporation.

(5) That the income of the taxpayer, Arnold S. Coven, reported as salary income on the personal income tax returns filed

and from which income, social security taxes and withholding taxes were deducted was paid by both corporations for real estate management services similar and related to his real estate management activities reported on his unincorporated business tax return.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

DETERMINES:

(A) That the income from Winpark Realty Corporation and Queens Garage Corporation constituted compensation received in connection with a business regularly carried on by the taxpayer; that such compensation was improperly excluded by the taxpayers from the unincorporated business tax returns for the years in issue.

(B) That the assessments for the years 1958, 1959 and 1960 are correct and legally due and owing together with lawful interest and other statutory charges, and the taxpayers' application for revision or refund of unincorporated business assessments assessed for such years is hereby denied.

DATED: Albany, New York, this 19th day of September, 1966.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY
President

Commissioner

/s/

JAMES R. MACDUFF
Commissioner

4/4/66

Mr. Rook:

Re: ARNOLD S. and MARION COREN

This morning I had a call from Mr. Igoe's office to report that 1958, 1959 and 1960 returns for the above-named were charged out to Mr. Schapiro in our Law Bureau for formal hearing as of 4/27/64.

I checked with Mr. Schapiro as to whether or not he is still holding the case and he tells me a hearing was held June 9, 1964 and the matter is now in Mr. Molineaux's hands. It seems that there is a related case which went to the Law Bureau on August 9, 1965, which has a bearing on the Coren matter.

I told him you would call later in the day to check with him further after he has time to review the matter again.

As you will note, Commissioner Clark called this afternoon to ask what information you had been able to glean on the matter.

GEP

Mr. Igoe:

Re: ARNOLD S. and MARION COREN
703 Carlyle
Woodmere, L.I.N.Y.

Assessments: 1958 -- 992774
1959 -- B-992817
1960 -- AB-933474

I have received an inquiry in regard to the
above-captioned matter. Will you please send
me a report as to its present status?

Secretary to the
State Tax Commission

4/1/66

2-2-66