Unincorp. Bus. Tax
Determinations A-Z
Singer, Stern & Carlberg

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION

OF

OSCAR CARLBERG (now deceased)
and HANS MEISTER, individually
and as co-partners d/b/a the
firm name and style of:

SINGER, STERN & CARLBERG

FOR REVISION OR REFUND OF UNINCORPORATED
BUSINESS TAXES UNDER ARTICLE 16-A OF THE
TAX LAW FOR THE FISCAL YEAR ENDING 9/30/52.

The taxpayer, Oscar Carlberg, having filed an application for revision or refund of unincorporated business taxes under Article 16-A of the Tax Law for the fiscal year ending 9/30/52 and a hearing having been held in connection therewith at the office of the State Tax Commission at 80 Centre Street, New York City, N. Y. on the 13th day of February, 1964 before Solomon Sies, hearing officer of the Department of Taxation and Finance, at which hearing the taxpayer was represented by the firm of Tischler & Tischler, Esqs., 295 Madison Avenue, New York City, N. Y. by Mortimer H. Tischler, Esq., Of Counsel, and the matter having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That during the fiscal year ending September 30, 1952, Oscar Carlberg and Hans Meister were co-partners doing business under the firm name and style of Singer, Stern & Carlberg at 405 Lexington Avenue, City and State of New York; that although a New York State Partnership Return was filed for the fiscal year ending September 30, 1952, no unincorporated business tax return was filed nor were unincorporated business

taxes paid; that on February 6, 1958 an assessment was made (Assessment No. FA-73560) holding that the activities of the co-partnership constituted the carrying on of an unincorporated business subject to unincorporated business tax.

(2) That the taxpayer, Oscar Carlberg, was duly admitted and registered as a patent attorney before the United States Patent Office on June 8, 1917 and was continually registered with the United States Patent Office as a patent attorney for the period from 1917 through and including December 31, 1955; that the taxpayer, Hans Meister, was never admitted as a patent attorney or agent to practice before the United States Patent Office; that neither Oscar Carlberg nor Hans Meister was ever admitted as an attorney to practice law before the United States Courts or the highest courts of any State or Territory of the United States.

(3) That the firm of Oscar Carlberg and Hans Meister doing business as Singer, Stern & Carlberg during the fiscal year ending September 30, 1952 was exclusively engaged in foreign patent and trademark work and that its income during the aforesaid period was derived solely from such work; that the activities of the taxpayers in foreign patent and foreign trademark work do not fall within the jurisdiction of the United States Patent Office.

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

DETERMINES:

(A) That the activities of the taxpayers during the fiscal year ending September 30, 1952 do not constitute the practice of a recognized profession so as to exclude the income derived therefrom from the imposition of unincorporated business taxes; that the activities of the taxpayers as set forth in Finding (3) above, during the aforementioned period constituted the carrying on of an unincorporated business within the intent and meaning of Section 386, Article 16-A of the Tax Law.

(B) That, accordingly, the assessment (Assessment No. FA-73960) is correct; that said assessment does not include any tax or other charge which could not have been lawfully demanded and that the taxpayer's application for revision or refund with respect to said assessment be and the same is hereby denied.

DATED: Albany, New York on the 3rd day of March, 1967.

STATE TAX COMMISSION

/s/ JOSEPH H. MURPHY
Commissioner

/s/ JAMES R. MACDUFF
Commissioner

/s/ WALTER MACLYN CONLON
Commissioner