

STATE OF NEW YORK
STATE TAX COMMISSION

C.B.T. Interim Payments
Management Associates

In the Matter of the Petition

of

MANAGEMENT ASSOCIATES

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) 1962

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

State of New York
County of Albany

LYNN HORODOWICH, 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 5th day of November, 1969 she served the within
Notice of Decision (or Determination) by (certified) mail upon

Management Associates (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Miss Ann Bellanti, 382 Dewey Avenue
Buffalo, New York

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

12th day of November, 1969.

Grace E. Pritchard

Lynn Horodowich

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MANAGEMENT ASSOCIATES

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business:
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) 1962

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

State of New York
County of Albany

LYNN HORODOWICH, 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 5th day of November, 1969, she served the within
Notice of Decision (or Determination) by (certified) mail upon

Management Associates (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Ralph J. Gregg, Esq., Albrecht, Maguire,

Heffern and Gregg, 1900 Liberty Bank Building, Buffalo, New York
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

1st day of November, 1969.

Grace E. Pritchard

Lynn Horodowich

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MANAGEMENT ASSOCIATES

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) 1962

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

State of New York
County of Albany

LYNN HORODOWICH, 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 5th day of November, 1969 she served the within
Notice of Decision (or Determination) by (certified) mail upon

MANAGEMENT ASSOCIATES (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Frank J. Weber, 83 Bryant Street,
Buffalo, New York

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

12th day of November, 1969.

Grace E. Pritchard

Lynn Horodowich

To Mr. Rook

Re: Management Associates

Determination to deny petition of taxpayer was drafted by V. Molineaux and is submitted after minor changes in content and sentence structure.

September 11, 1969

LAN/lh

(Management Associates)



From Lawrence A. Newman

PATCH T (FILE A)



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
MANAGEMENT ASSOCIATES :
for Redetermination of a Deficiency :
or for Refund of Unincorporated :
Business Tax under Article 23 of the :
Tax Law for the Fiscal Year Ended :
August 31, 1962 :

The taxpayer, Management Associates having filed a petition for redetermination of deficiency of unincorporated business tax under Article 23 of the Tax Law and a hearing having been held at the office of the State Tax Commission, in the City of Buffalo, New York on September 20, 1965 and the record having been examined and considered

The State Tax Commission hereby finds:

1. For the fiscal year ended August 31, 1962, Management Associates filed a partnership return disclosing receipts of \$29,500.00 deductions of \$649.50 and distributions of the balance of \$20,850.00 to the partners.

2. Frank J. Webber, Philip A. Loes and Robert W. Webber, the partners in Management Associates, are the principal officers and stockholders of Thermal Components and Webber-Loes-Webber Associates, Inc., and are the key employees of both corporations in the design, engineering, sales and installation of heating and air-conditioning equipment.

3. The corporations make lump-sum payments each month, which are called management fees, to Management Associates.

4. The checks are deposited and other checks drawn by Management Associates to each of the partners and to pay quarterly estimates of income tax for the partners. Small amounts for charitable contributions and for legal and accounting fees were also paid.

5. Collections of the management fees and distribution thereof were the only transactions of business by Management Associates.

6. Section 703 of the Tax Law defines an unincorporated business as "any trade, business or occupation conducted, engaged in or being liquidated by an individual or unincorporated entity, 'and excludes' the performance of services by an individual as an employee or as an officer or director of a corporation, etc." Since the exclusion for employees is limited to individuals, it cannot include a partnership.

Based upon the evidence and findings presented, the State Tax Commission hereby

DETERMINES:

(A) Management Associates is an unincorporated business within the meaning of Section 703 of the Tax Law.

(B) The audit changes issued November 21, 1963, file No. 2821 are correct.

(C) The petition for redetermination is denied.

Dated: Albany, New York, this 27th day of October, 1969.

STATE TAX COMMISSION

Norman Spillman
PRESIDENT

Robert A. Stanley
COMMISSIONER

Milton Koehn
COMMISSIONER