

STATE OF NEW YORK
STATE TAX COMMISSION

HEARING UNIT - File Copy

TAX

UBT

ART.

23

SECS.

703

KEY WORDS

STATUS OF

ENTITY AS A partnership

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

CROSS REFS.

CASE LAW CITATIONS

REMARKS

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.

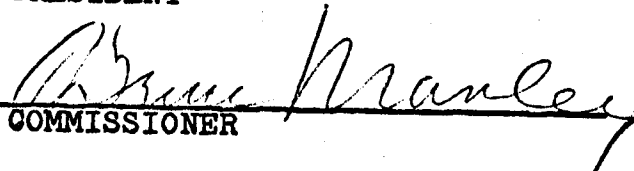
(C) The petition for redetermination is denied.

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

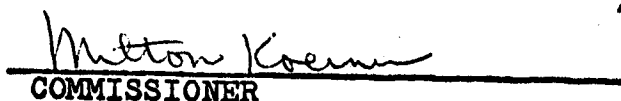
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER