

KEY WORDS  
"Shuman" defined from  
source with carrying on  
of a business  
including liquidation  
of a business  
as  
"collation of  
outstanding  
obligations"  
(see 4 C of  
determination)  
T. Department Reports 1957  
(Pg. T. & F.)

STATE OF NEW YORK

STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION

OF

AMRODEEN MANAGEMENT COMPANY

For revision or refund of unincorporated  
business taxes under Article 16-A of the  
Tax Law, for the years 1955 and 1956  
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The State Tax Commission having assessed additional unincorporated business taxes on the income of the taxpayer partnership, Amrodeen Management Company, under Article 16-A of the Tax Law, for the fiscal years ended 1955 and 1956 by additional assessments numbered BF140066 and BF140067, both dated March 26, 1959, and said taxpayer partnership having filed applications for refund or revision related to such additional assessments and such applications having been denied; and a hearing having been held on February 25, 1964 at the offices of the New York State Department of Taxation and Finance, 80 Centre Street, New York, New York, before Francis X. Boylan, hearing officer, and the taxpayer having appeared by Alan Bakst, Esq. of New York, New York; and the record having been duly examined and considered.

See Memo  
11/16/64

The State Tax Commission hereby finds that:

(1) Amrodeen Management Company was a partnership and until 1947 it owned and operated a hotel in the borough of Manhattan in New York, New York; in that year it sold the real property which was the site of the hotel, and thereafter and during the years under consideration, the fiscal years ended 1955 and 1956, it continued in existence undissolved, maintaining an office in New York, New York, for the purpose of receiving and distributing to the partners the receipts of the partnership, which consisted of payments of installments on the balance of

the sale price of the said real property, and of related interest; and it distributed such net receipts to the partners in accordance with their shares in the partnership.

(2) In the fiscal years ended 1955 and 1956 the partnership reported in its Returns, receipts of payments of installments made in those years on notes for the balance of the purchase price of the real property and reported also the receipt of interest in the amount of \$16,361.42 in the fiscal year ended 1955, and of \$15,813.70 in the year ended 1956; on the portion of the installment payments that constituted profit, it paid unincorporated business tax as a taxable gain, but it excluded from its base of unincorporated business tax the income of the said interest received.

(3) On the returns for the years under consideration, the fiscal years ended 1955 and 1956, the State Tax Commission assessed additional unincorporated business tax, determining the receipt of said interest to constitute partnership income and disallowing also a minor expense claimed by the taxpayer for accountancy services; and the taxpayer partnership thereafter made applications for revision or refund in connection with said additional assessment on the grounds, as stated in said applications, that the receipt for the purpose of distribution to the individuals comprising the partnership, of installments of payments on a mortgage, did not constitute the partnership to be an unincorporated business at that time within the meaning of the law.

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

D E T E R M I N E S:

(A) That interest payments received and reported by the partnership in the fiscal years ended in 1955 and 1956 in the respective amounts of \$16,361.42 and \$15,813.70, which interest

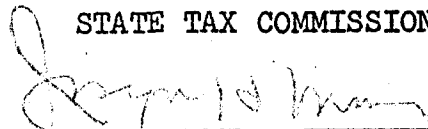
was paid on the unpaid balance of the sales price of a sale in 1947 of real property which was the site of a hotel then operated by the partnership, constituted taxable income of the taxpayer partnership as an unincorporated business in said years 1955 and 1956, pursuant to provisions of Tax Law Section 386-d as amended in 1952, being income derived from a source connected with the carrying on of such business as defined in said section as so amended to include the liquidation of a business's assets or the collection of its outstanding installment obligations.

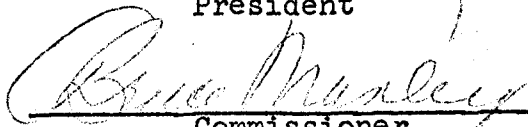
(B) That the additional assessments made by reason of the receipt of said interest as income, and by the reason of other adjustments not challenged, were lawful and correct.


(C) That accordingly the additional assessments for the fiscal years ended 1955 and 1956 in the amounts of \$672.01 and \$654.44, as of the date of both said additional assessments, March 26, 1959, are affirmed; and the taxpayer's related applications for revision or refund are denied.

DATED: Albany, New York this 2nd day of June 1969.

STATE TAX COMMISSION

  
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President

  
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Commissioner

  
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Commissioner