

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Quarnig Dorian and Peter F.
Licari

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) 1963, 1964
and 1965

State of New York
County of Albany

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

Roman R...
VBT
71

*decsent
cc 1st
99-314*

Linda Wilson, 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 11th day of January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Quarnig Dorian and Peter F. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: c/o Q. Dorian & Peter F. Licari
73 Jane Street
New York, 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

11th day of January, 1971.

Martha Fucini

Linda Wilson

STATE TAX COMMISSION

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QUARNIG DORIAN AND PETER F. LICARI

For Redetermination of Deficiency or for
Refund of unincorporated business taxes
under Article 23 of the Tax Law for the
years 1963, 1964 and 1965

DECISION

Petitioners, Quarnig Dorian and Peter F. Licari, have filed a petition for redetermination of deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1963, 1964, and 1965. (File number 1218). A formal hearing was held before Alfred Rubinstein, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on June 28, 1968 at 10:15 A.M. Petitioners appeared in person.

FINDINGS OF FACT

1. Petitioners, Quarnig Dorian and Peter F. Licari, filed New York State income tax partnership returns for the years 1963, 1964, and 1965. They did not report any unincorporated business tax on these partnership returns.

2. On April 10, 1967, the Income Tax Bureau issued and mailed to petitioners, Quarnig Dorian and Peter F. Licari, a statement of audit changes imposing unincorporated business tax upon the income reported by them during the years 1963 and 1964, upon the grounds that there was no professional exemption allowed for the partnership since petitioner, Peter F. Licari, was not a licensed engineer or architect and that therefore, their activities constituted the carrying on of an unincorporated business in accordance with the provisions of Article 23 of the Tax Law and accordingly issued a notice of deficiency therefor in the sum of \$769.50. This notice was received by them.

3. On March 11, 1968 the Income Tax Bureau issued a statement of audit changes against petitioners. Quarnig Dorian and Peter F. Licari, imposing unincorporated business tax upon the income reported by them during the year 1965 upon the aforesaid grounds and accordingly issued a notice of deficiency therefor in the sum of \$221.81.

4. On March 20, 1968 the Income Tax Bureau received in Albany, New York a petition for redetermination of deficiency or for refund of unincorporated business taxes for the years 1963, 1964 and 1965.

5. Petitioner, Quarnig Dorian, was a licensed New York architect. Petitioner, Peter F. Licari, was a draftsman. In 1962 Petitioner, Dorian, purchased the architectural practice of a deceased architect with whom petitioner, Licari, had been associated. In 1963 they entered into a partnership to carry on architectural work. They had no written agreement. They shared equally in the profits of the partnership. They jointly signed the office lease which expired in 1968. They both brought business into the partnership. Clients made checks for fees payable to both or to Petitioner, Dorian. Less than 80% of the gross income of the partnership was derived from personal services rendered by Petitioner, Dorian.

CONCLUSIONS OF LAW

A. That the petition of Quarnig Dorian and Peter F. Licari for redetermination of a deficiency or for refund of unincorporated business taxes as it relates to the years 1963 and 1964 was mailed to the State Tax Commission more than 90 days after the mailing of the notice of deficiency dated April 10, 1967 and was therefore untimely filed in accordance with the meaning and intent of Section 689 (b) of the Tax Law.

B. That Petitioner, Peter F. Licari's activities as a draftsman during the years 1963, 1964 and 1965 did not constitute the practice of a profession and therefore, the partnership of Petitioners, Quarnig Dorian and Peter F. Licari, is deemed to be an unincorporated

business in accordance with the meaning and intent of Section 703 (c) of the Tax Law.

C. That the aforesaid activities of Petitioners, Quarnig Dorian and Peter F. Licari, during the years 1963, 1964 and 1965 constituted the carrying on of an unincorporated business and their income derived therefrom was subject to unincorporated business tax in accordance with the meaning and intent of Section 703 of the Tax Law.

D. That the petition of Quarnig Dorian and Peter F. Licari is denied and the notices of deficiency issued April 10, 1967 and March 11, 1968 are sustained.

DATED: ALBANY, NEW YORK

STATE TAX COMMISSION

December 31, 1970

Norman Halloran

COMMISSIONER

COMMISSIONER

William Korman

COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

AREA CODE 518
457-2655, 6, 7

Licari, Dorian & Peter
437
Art. 23
STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Albany, New York

January 11, 1971

Mr. Q. Dorian & Peter F. Licari
c/o Q. Dorian
73 Jane Street
New York, New York

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **Section 722**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N.Y. 12226

CERTIFIED

No 237776

MAIL

Mr. Q. Dorian & Peter F. Licari
c/o Q. Dorian
73 Jane Street
New York, New York



☐ Moved, lost old address

☐ No such number

☐ Moved, not forwardable

☒ Addressee unknown

NEW YORK, N.Y. 10014

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B. That Petitioner, Peter F. Licari's activities as a draftsman during the years 1963, 1964 and 1965 did not constitute the practice of a profession and therefore, the partnership of Petitioners, Quarnig Dorian and Peter F. Licari, is deemed to be an unincorporated

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