

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Kahn & Jacobs

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article(s) 16-A of the
Tax Law for the (Year(s) f/y/e Oct. 31, 1957, Oct. 31, 1958
Oct. 31, 1959 & Oct. 31, 1960

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

State of New York
County of Albany

Martha Funaro , 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 12th day of April , 19 71, she served the within
Notice of Decision (or Determination) by (certified) mail upon George A.
Spiegelberg, Esq. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: ~~George A. Spiegelberg, Esq.~~
new rep c/o Strasser, Spiegelberg, Fried & Frank
see letter 120 Broadway
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

12th day of April , 1971

George S. Van Patten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Kahn & Jacobs

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For a Redetermination of a Deficiency or
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Taxes under Article(s) 16-A of the
Tax Law for the (Year(s) f/y/e Oct. 31, 1957-Oct. 31, 1958,
Oct. 31, 1959 & Oct. 31, 1960

State of New York
County of Albany

Martha Funaro , 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 12th day of April , 19 71, she served the within
Notice of Decision (or Determination) by (certified) mail upon Kahn & Jacobs

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Kahn & Jacobs
2 Park Avenue
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

12th day of April , 19 71

James S. Van Patten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
KAHN & JACOBS	:	DETERMINATION
for Revision or Refund of Unincorporated	:	
Business Taxes under Article 16-A of the	:	
Tax Law for the fiscal years ending	:	
October 31, 1957, October 31, 1958,	:	
October 31, 1959 and October 31, 1960.	:	

The taxpayer applied for a revision or refund of unincorporated business taxes under Article 16-A of the Tax Law for the fiscal years ended October 31, 1957, 1958, 1958 and 1960. A formal hearing was held before Martin Shapiro, Hearing Officer, in the offices of the State Tax Commission in the City of New York on December 8, 1965. The taxpayer was represented by Strasser, Spiegelberg, Fried & Frank, Esqs., (George A. Spiegelberg, Esq., of Counsel).

FINDINGS OF FACT

1. The issue in this case is whether the activities of the taxpayer constitute the practice of architecture under section 386 of the Tax Law, thereby exempting the taxpayer from unincorporated business taxes.

2. The taxpayer is a partnership engaged in the practice of architecture. For the fiscal years 1957, 1958, and 1959, the taxpayer-partnership filed partnership returns on which the following individuals were listed as partners, along with their respective partnership interest: Ely J. Kahn (35%), Robert A. Jacobs (45%), James B. Newman (10%), and Pierre A. Bezy (10%). For fiscal year 1960, the taxpayer-partnership filed a partnership return on which, in addition to the individuals listed above, Roy S. Bent was listed as a partner with a 10% interest and Mr. Kahn's interest was reduced

to 25%. Neither Mr. Bezy nor Mr. Bent were licensed by the State of New York to practice architecture.

3. An audit of the applicant's tax returns for the years in question resulted in a determination that the business activities of the applicant constituted the carrying on of an unincorporated business. Accordingly, the partnership was assessed \$25,146.14 under Assessment No.'s 989726, 989727, 989728, and 989729 dated November 21, 1961.

4. Section 7302 of the Education Law prohibits the practice of architecture except by qualified architects duly licensed by the State of New York. Section 7209(2) provides that a partnership between one or several architects is not prohibited when all the partners have been duly licensed by the State of New York.

DETERMINATION

A. The business activities of the taxpayer-partnership constitute the carrying on of an unincorporated business within the meaning and intent of Article 16-A of the Tax Law and the resulting net income is subject to the unincorporated business tax.

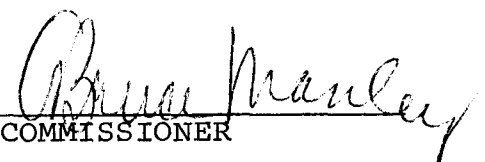
B. The applications for the fiscal years in question are denied and the additional assessments are sustained.

DATED: Albany, New York

April 12, 1971.

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER

Determination - KAHN & JACOBS
16-19
Apr. 12, 1971

STRASSER, SPIEGELBERG, FRIED & FRANK

ARTHUR L. STRASSER (1905-1967)

120 BROADWAY, NEW YORK, N.Y. 10005

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FRANKLIN L. BASS
MARC P. CHERNO
ARTHUR A. FEDER
JOHN F. FINN, JR.
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ARTHUR LAZARUS, JR.
RICHARD SCHIFTER
DANIEL M. SINGER

HAROLD P. GREEN
COUNSEL

OUR REFERENCE

April 15, 1971

State of New York
Department of Taxation and Finance
Building Nine - Room 214 A
State Campus
Albany, New York 12226

Gentlemen:

You have sent to us a letter dated April 12th addressed to Kahn & Jacobs which contains a "Determination" holding that this architectural firm is subject to the unincorporated business tax.

I am sure that you have been notified that the firm of Simpson, Thatcher & Bartlett of One Battery Park Plaza, New York, N.Y. 10004, have been substituted as attorneys for Kahn & Jacobs in place of this firm. For that reason I am forwarding the documents which you have sent to the undersigned to the attorneys for Kahn & Jacobs.

Yours very truly,

STRASSER, SPIEGELBERG, FRIED & FRANK

By George A. Spiegelberg
George A. Spiegelberg
Counsel

GAS:tg