

STATE OF NEW YORK
STATE TAX COMMISSION

Williams, Harold G.
O.B.T. 16-A
1971

In the Matter of the Petition

of

Harold G. Williams (deceased)

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) 1956

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 26th day of February , 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon Harold G. Williams (deceased) (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Harold G. Williams
c/o Philip Geller
295 Madison 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

26th day of February , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Harold G. Williams (deceased)

For a Redetermination of a Deficiency or
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wrapper addressed as follows: Philip Geller
295 Madison 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.

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Sworn to before me this

26th day of February, 1971

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
ON BEHALF of :
HAROLD G. WILLIAMS (deceased) : DECISION
for Revision or for Refund of Unincorporated :
Business Taxes under Article 16A of the Tax :
Law for the Year 1956 :

Prior to his death, Mr. Harold G. Williams applied for revision or for refund of unincorporated business taxes under Article 16A of the Tax Law for the year 1956. A formal hearing was held before Francis X. Boylan, Hearing Officer, in the offices of the State Tax Commission in the City of New York on September 11, 1969. The applicant's estate was represented by LeFevre, Raphael & Alter (John Flynn, II Esq., of counsel); and the Income Tax Bureau was represented by Edward H. Best, Esq. (Albert J. Rossi, Esq., of counsel).

FINDINGS OF FACT

1. Harold G. Williams (deceased) filed a New York State income tax resident return for the year 1956.

2. On June 16, 1959 a notice of assessment was issued by the Income Tax Bureau numbered B621701 for the year 1956 in the amount of \$1608.99

The assessment was based on a finding by the Income Tax Bureau that the activities set forth in the decedents return constitute an unincorporated business. Therefore, the income derived is taxable under Article 16A of the Tax Law.

3. Decedent caused to be organized sixteen corporations, each corporation operating one steamship vessel. Of the sixteen companies decedent drew salaries from two corporations. The Atlantic and Great Lakes Steamship Corporation and Theokeetor Steamship Corporation.

He drew no salaries from the other fourteen corporations. The decedent was the sole stockholder of each corporation. Decedent made the contracts for all sixteen corporations. When the contract was made it would specify that a commission was to be paid.

4. Decedent deducted his own business expenses.
5. Decedent was not subject to any supervision or direction.
6. Decedent defined himself as a shipping broker on his 1956 income tax return.

DETERMINATION

A. The business activities of the applicant during the year 1956 constituted the carrying on of an unincorporated business as an independent agent, and the income derived therefrom is subject to the unincorporated business tax.

B. The assessment is sustained and the petition is denied.

DATED: Albany, New York

STATE TAX COMMISSION

February 26, 1971
~~January 26, 1971~~

Norman Gathman

PRESIDENT

Bruce Maxley

COMMISSIONER

Milton Korman

COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

Lester Zirin
Jack Bigel
U. B. T.
23 *1971*

In the Matter of the Petition

of

LESTER ZIRIN AND JACK BIGEL :

d/b/a PROFESSIONAL PLAN 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) 1961 :

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

State of New York
County of Albany

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 15th day of January , 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon LESTER ZIRIN
AND JACK BIGEL (representative of) the petitioner in the within
PLAN ASSOCIATES proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. James Dinerman, CPA
60 East 42nd 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

15th day of January , 1971.

Martha Tuxedo

LW

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
LESTER ZIRIN AND JACK BIGEL
d/b/a PROFESSIONAL PLAN 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) 1961 :

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

State of New York
County of Albany

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 15th day of January , 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon LESTER ZIRIN
AND JACK BIGEL (representative of) the petitioner in the within
PLAN ASSOCIATES proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Professional Plan Associates
53 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.

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Sworn to before me this

15th day of January , 1971

Martha Funnaro

Linda Wilson

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
LESTER ZIRIN AND JACK BIGEL :
d/b/a PROFESSIONAL PLAN ASSOCIATES : DECISION
for Redetermination of Deficiency or for :
Refund of Unincorporated Business Taxes :
under Article 23 of the Tax Law for the :
Year 1961 :
:

Taxpayers petitioned for redetermination of deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the year 1961. A formal hearing was held before Alfred Rubinstein, Hearing Officer, in the offices of the State Tax Commission, in the City of New York on February 14, 1968.

FINDINGS OF FACT

1. The issue in this case is whether income of the partnership earned by one partner from his activities as a career life insurance agent for another company, is subject to unincorporated business tax.

2. The above partnership began activities in 1960 for the purpose of doing business in life, health, accident and group insurance. Lester Zirin, besides being a partner, was also a Career Life Insurance Agent of Massachusetts Mutual Life Insurance Company. All income earned in this capacity was included in the partnership income. The income of the partnership for 1961 was reported as \$34,872.89, of which \$14,227.75 was commissions earned by Mr. Zirin from Massachusetts Mutual and excluded from partnership income for unincorporated business tax purposes. An audit resulted in a deficiency notice dated March 15, 1965, file number P-83, in the amount of \$490.54 plus interest, holding this income subject to unincorporated business tax.

3. Mr. Zirin represented several other life insurance companies, as did the partnership. Mr. Zirin's income was not subject to withholding taxes by these companies or Massachusetts Mutual.

4. Mr. Zirin was reimbursed by Massachusetts Mutual for rent, telephone, secretarial services and stationery. Massachusetts Mutual maintained no supervision or control over the manner in which Mr. Zirin conducted his business affairs.

DECISION

A. The taxpayer has failed to sustain his burden of proof. Income earned as a Career Life Insurance Agent of Massachusetts Mutual Life Insurance Company constitutes receipts of the partnership. As such it is subject to unincorporated business tax.


B. The petition is therefore denied and the notice of deficiency is sustained.

DATED: Albany, New York

STATE TAX COMMISSION

January 12, 1971.


COMMISSIONER


COMMISSIONER


COMMISSIONER