

STATE OF NEW YORK
STATE TAX COMMISSION

*Lester Zirin & Jack Bigel
d/b/a Professional Plan
Assoc.*

*UBT ZIRIN
Article 16-A*

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) 16-A of the
Tax Law for the Year(s) 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 15th day of January , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Lester Zirin &
Jack Bigel-d/b/a (representative of) the petitioner in the within
Professional Plan Associates
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Lester Zirin & Jack Bigel
d/b/a 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.

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

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Lester Zirin & Jack Bigel :
d/b/a Professional Plan Associates :
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) 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 15th day of January , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Lester Zirin &
Jack Bigel-d/b/a (representative of) the petitioner in the within
Professional Plan Associates
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: James Dinerman, C.P.A.
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.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
LESTER ZIRIN AND JACK BIGEL	:	DETERMINATION
d/b/a PROFESSIONAL PLAN ASSOCIATES	:	
for Revision or Refund of Unincorporated	:	
Business Taxes under Article 16-A of the	:	
Tax Law for the Year 1960	:	

Taxpayers applied for revision or refund of unincorporated business taxes under Article 16-A of the Tax Law for the year 1960. 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 1960 was reported as \$43,064.04, of which \$23,803.33 was commissions earned by Mr. Zirin from Massachusetts Mutual and excluded from partnership income for unincorporated business tax purposes. An audit resulted in assessment number AB 005752, dated April 5, 1962, in the amount of \$761.71 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.

DETERMINATION

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 application is therefore denied and the assessment is sustained.

DATED: Albany, New York
January 12, 1971.

STATE TAX COMMISSION

Norman L. Gellerman

COMMISSIONER

Baruch Hauley

COMMISSIONER

Milton Kerner

COMMISSIONER