

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MUTUAL MORTGAGE CO. OF NEW YORK

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) 1965 and 1966.

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

State of New York  
County of Albany

Lynn 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 28th day of February, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon MUTUAL MORTGAGE CO. OF NEW YORK (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mutual Mortgage Co. of New York  
500 Old Country Road  
Garden City, New York 11530  
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

28th day of February, 1972

Martha Funder

Lynn Wilson

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MUTUAL MORTGAGE CO. OF NEW YORK

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) 1965 and 1966.

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

State of New York  
County of Albany

Lynn 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 28th day of February, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon ARTHUR A. RALPH, ESQ. c/o BRICKNER & RALPH, (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Brickner & Ralph, Esqs. 175 Remsen Street Brooklyn, New York 11201

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

28th day of February, 1972.

Martha J. Jancso

Lynn Wilson



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**February 28, 1972**

**Mutual Mortgage Co. of New York**  
**500 Old Country Road**  
**Garden City, New York 11530**

**Gentlemen:**

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,

**Lawrence A. Newman**  
HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
MUTUAL MORTGAGE COMPANY OF NEW YORK, :  
A limited partnership, : DECISION  
for Redetermination of a deficiency or :  
for Refund of Unincorporated Business :  
Taxes under Article 23 of the Tax Law :  
for the Years 1965 and 1966. :

A petition was filed on behalf of Mutual Mortgage Company of New York, a limited partnership, for redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1965 and 1966.

A formal hearing was scheduled before Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission in the City of New York on July 21, 1971.

Arthur A. Ralph, Esq., on behalf of the petitioners, waived the formal hearing and consented that the questions of law be determined by the State Tax Commission, without the introduction of additional evidence by the petitioners.

## ISSUE

Whether a partnership is allowed a salary credit for a corporate-partner in the computation of its liability for unincorporated business taxes.

## FINDINGS OF FACT

1. Mutual Mortgage Company of New York timely filed New York State partnership returns for the years 1965 and 1966.
2. On March 31, 1969, the Income Tax Bureau issued a Notice of Deficiency for the years 1965 and 1966 under File No. P-3267, in the amount of \$221.88, plus interest.

3. The Income Tax Bureau based the Notice of Deficiency on their determination that the allowance of taxpayer's services should not include the amount of \$5,000.00 attributable to a corporation-partner.

4. A petition for redetermination of the deficiency was timely filed.

5. Mutual Mortgage Company of New York is a limited partnership composed of six General Partners, and in excess of 140 Limited Partners, each of whom have certificates showing their respective interests in the Partnership.

The Company is engaged in financial operations consisting of making loans to builders, land developers and owners of apartment houses, shopping centers and commercial buildings.

6. The General Partners are:

HERMAN L. BRICKNER	Residing at 73 Cross Ridge Rd. Chappaqua, New York
BERTRAM FEINSTEIN	residing at 145 Dogwood Ave. Roslyn Harbor, New York
GEORGE FELDMAN	residing at 444 Beach 141st St. Belle Harbor, New York
ISIDOR KATZ	residing at 112-41 72nd Rd. Forest Hills, New York
ARTHUR A. RALPH	residing at 53 Franklin Ave. Rye, New York
PORTFOLIO CONTROL CORP.	having its principal office at 500 Old Country Rd. Garden City, New York

7. Portfolio Control Corporation is composed of businessmen, with a background of investments in real estate. The members of this corporation make inspections of the properties in connection with loans, attend meetings in connection therewith and consult with the other General Partners as to the advisability of making or rejecting the various loan applications.

8. Article 23, section 708(a) of the Tax Law reads as follows:  
"In computing unincorporated business tax income, there shall be allowed-----deductions for reasonable compensation-----for personal services of the proprietor and of each partner actively engaged in the unincorporated business-----."

DECISION

A. For purposes of computing the unincorporated business tax, a credit for personal services of a partner is allowable only for the services of an individual.

B. Therefore, no credit for services is allowable for the corporation, Portfolio Control Corporation, which is a member of the partnership.

C. The Notice of Deficiency is sustained, and the petition is denied.

DATED: Albany, New York  
*February 28, 1972.*

STATE TAX COMMISSION

*Norman Gallman*  
\_\_\_\_\_  
COMMISSIONER

*Robert M. Bradley*  
\_\_\_\_\_  
COMMISSIONER

*Wilton Koerner*  
\_\_\_\_\_  
COMMISSIONER