

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PALETTE DESIGNS

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) 1966

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 16th day of January , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Palette Designs

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Palette Designs
303 Fifth 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

16th day of January , 1973

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
PALETTE DESIGNS

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) 1966 :

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 16th day of January , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Alvin Arons

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Alvin Arons
50 Main Street
Hackensack, New Jersey

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

16th day of January , 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION

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

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

January 16, 1973

**Palette Designs
303 Fifth Avenue
New York, New York**

Gentlemen:

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

Please take further notice that pursuant to **section 722 of**
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
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
PALETTE DESIGNS	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law	:	
for the Year 1966.	:	

Petitioner, Palette Designs, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1966. (File No. 3463). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on June 21, 1972, at 1:15 P.M. Petitioner appeared by Alvin Arons, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Albert J. Rossi, Esq., of Counsel).

ISSUE

Did the business activities of petitioner, Palette Designs, during the year 1966 constitute the practice of a profession?

FINDINGS OF FACT

1. Petitioner, Palette Designs, filed a New York State income and unincorporated business tax partnership return for the year 1966. It stated on said return that its net income for said year was not subject to the unincorporated business tax.

2. On February 19, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Palette Designs, imposing unincorporated business tax in the sum of \$922.76 upon the income received by it from its business activities during the year 1966 and accordingly issued a Notice of Deficiency in the sum of \$969.50.

3. Petitioner, Palette Designs, was a partnership formed by Erich R. Sinner, Fio Mandrogona, and Robert Jackenthal in 1965. They all actively participated in the business affairs of the partnership during the year 1966.

4. Erich R. Sinner was a graduate of Pratt Institute with a Bachelor of Science degree in the field of interior designing. He was a consultant to the Garden State Parkway Authority on the use of colors in traffic safety. He worked on the design of the interior of the General Motors building in Newark, New Jersey. He created display designs for leading New York department stores. He was a member of the National Society of Interior Designers.

5. Fio Mandrogona was a graduate of the Professional School of Industrial Arts with a degree in the field of industrial and architectural design. He specialized in the design problems peculiar to the field of vinyl. He was a member of the National Society of Interior Designers.

6. Robert Jackenthal did not have any formal education beyond high school. He did not attend college. He did not have a degree in industrial design. He has written an article on the usage of wallpaper in industrial design in a trade publication known as "Wallpaper & Wallcoverings". He did not become a "professional member" of the National Society of Interior Designers until August 1, 1968. He had six years of practical experience in the interior design field prior to becoming a partner of petitioner, Palette Designs.

7. The business activities of petitioner, Palette Designs, during the year 1966 consisted of designing and consulting on the design of patterns for industrial and commercial use. This included designs for fabrics, wallpaper, automotive interiors, flooring, wallboards and displays. It also consulted with industrial and commercial businesses on the proper use of color and design for various types of products. This included analysis of technical problems connected with the printing of colors or designs on fabrics.

8. During the year 1966, more than 80% of petitioner, Palette Designs, business income was derived from personal services rendered by its partners. Capital was not a material income producing factor.

CONCLUSIONS OF LAW


A. That a partnership engaged in practice of a profession is subject to the unincorporated business tax if any one of its partners does not qualify as a professional. Therefore, even if it is assumed that petitioner, Palette Designs, was engaged in the practice of the profession of industrial design, it is not entitled to a professional exemption under section 703(c) of the Tax Law since Robert Jackenthal, an active partner of the firm, did not qualify as a professional industrial designer in accordance with the meaning and intent of NYCRR 281.4Q.39(c).

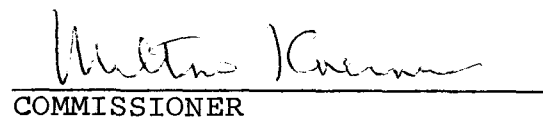
B. That the petition of Palette Designs is denied and the Notice of Deficiency issued February 19, 1968, is sustained.

DATED: Albany, New York
January 16, 1973

STATE TAX COMMISSION

COMMISSIONER


COMMISSIONER


COMMISSIONER