

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

:

of

ADOLF SONNENSCHNEIN, ISIDOR SONNENSCHNEIN AND HARRY L. BERMACK, INDIVIDUALLY AND AS CO-PARTNERS D/B/A STRATFORD FACTORS, AND HENRY KORNER, 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) 1953.

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 August, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon STRATFORD FACTORS (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Stratford Factors
95 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

28th day of August, 1972.

Matthew F. Furrer

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

:

of

ADOLF SONNENSCHNEN, ISIDOR SONNENSCHNEN AND HARRY L. BERMACK, INDIVIDUALLY AND AS CO-PARTNERS D/B/A TRATFORD FACTORS, AND HENRY KORNER, 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) 1953 :
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 August , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon AARON S. ROGAL,
C.P.A.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Aaron S. Rogal, C.P.A.
55 West 42 Street
New York, New York 10036

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 August , 1972.

Martha Funder

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
August 28, 1972

Stratford Factors
95 Madison Avenue
New York, New York

Gentlemen:

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

Please take further notice that pursuant to section(s)
386j of the Tax Law any proceeding
in court to review an adverse decision must be commenced
within **90 days** 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 relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Francis X. Boylan
Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION :
OF :
ADOLF SONNENSCHN, ISIDOR SONNENSCHN :
AND HARRY L. BERMACK, INDIVIDUALLY AND AS :
CO-PARTNERS DOING BUSINESS AS STRATFORD : DETERMINATION
FACTORS, AND HENRY KORNER, DECEASED, :
FOR REVISION OR REFUND OF UNINCORPORATED :
BUSINESS TAXES UNDER ARTICLE 16-A OF THE :
TAX LAW FOR THE YEAR 1953. :

Adolf Sonnenschein, Isidor Sonnenschein and Harry L. Bermack, partners in Stratford Factors, the taxpayer herein, having filed an application for revision or refund of additional unincorporated business taxes assessed for the year 1953, and such application having been denied, and a hearing having been held at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on June 8, 1965, before Francis X. Boylan, Hearing Officer, and Aaron S. Rogal, CPA, of New York, New York, having been present in behalf of the taxpayer, and the record having been duly examined and considered,

The State Tax Commission hereby finds that:

(1) By notice of additional assessment, BTF 100687, dated February 21, 1957, the Department of Taxation and Finance of the State of New York made an assessment of additional unincorporated business taxes due for the year 1953 in the amount of \$270.27, against Stratford Factors and its partners, and against Henry Korner, deceased, on a finding that the income received by the said Henry Korner from the said partnership in the amount of \$12,123.60 together with certain additional partnership income in the amount of \$3,450 constituted income subject to unincorporated business tax. The

additional net unincorporated business tax assessed was computed after allowing additional salary credit for Henry Korner.

(2) In its income tax and unincorporated business tax partnership return for the year 1953, Stratford Factors reported income paid to the three partners to a total of \$54,912.76 and paid unincorporated business taxes thereon in the amount of \$1,167.91. Later, a further payment in the amount of \$103.50 was made by Stratford Factors to discharge the additional unincorporated business tax related to further partnership income in the amount of \$3,450 aforesaid not reported.

The partnership return did not include any report of income earned by Henry Korner.

No separate return was ever made by Stratford Factors and Henry Korner as a joint venture and as a separate taxable entity conducting an unincorporated business.

(3) No claim was made by the partnership that Henry Korner reported and paid unincorporated business tax on his income in the amount of \$12,123.60 from Stratford Factors in 1953 in his individual return for that year and it is found that he did not make a return or payment, as an individual, of unincorporated business tax upon the said income.

(4) Stratford Factors was in the business of lending money to its customers to finance commercial transactions in which the said customers were parties, and pursuant to factoring agreements with them, it received repayment of the amounts advanced and its charges for fees and interest, out of the proceeds due to the customer on the completion of the transactions.

Pursuant to a written agreement with Stratford Factors, Henry Korner and his wife, Marta Korner, joined with the partnership in the financing of some of these transactions for a consideration as stated in the agreement. The additional assessment of unincorporated business taxes under consideration herein was made, in part,

upon income so received by Henry Korner and his wife from Stratford Factors in 1953.

(5) A writing dated April 21, 1952, entered into between Stratford Factors and Henry (and Marta) Korner for their participation in the financing of operations of Stratford Factors provided, in part, that Henry (and Marta) Korner were to participate as "joint venturers" with Stratford Factors in the financing operations with various clients, as stipulated from month to month, out of funds to be put up by Henry (and Marta) Korner, to the extent of 25% of the financing undertaken in behalf of the client. It was further provided that a statement of income from such participation was to be made to Henry (and Marta) Korner on a monthly basis "based upon the rate of 17.55% per annum" on their funds that were so being used. All losses ultimately attributable to the financing of any client were to be borne by Stratford Factors and by Henry (and Marta) Korner in the proportion of 75% against Stratford Factors and 25% against Henry (and Marta) Korner, and neither party was to have any interest in or liability for the general business of the other, except as to transactions in which the Korners participated in the financing, it was further provided.

Based upon the foregoing facts and findings, the State Tax Commission hereby

DETERMINES:

(A) That the relationship of Henry Korner, deceased to the taxpayer partnership, Stratford Factors, in 1953 was that of a joint venturer with the said partnership, and the conducting of the business of such joint venture by the parties to the venture constituted the conducting of an unincorporated business during the year.

(B) That, accordingly, the income received by the said Henry (and Marta) Korner from the said joint venture was subject to the unincorporated business tax and not having been paid, was assessable in 1957 against the said joint venture and the joint

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venturers, Henry Korner, deceased, and Marta Korner, as one party,
and Stratford Factors, a partnership as the other party. T.L.
§§ 350.11; 386

(C) Accordingly, the assessment as to the income in the
amount of \$12,123.60 received by Henry Korner is affirmed as against
Henry Korner, deceased, and against Stratford Factors, and its
partners, Adolf Sonnenschein, Isidor Sonnenschein and Harry L. Bermack.

The assessment (BTF 100687, dated February 21, 1957),
accordingly, is restated as follows:

Additional unincorporated business tax
for the year 1953 is assessed as follows:

Additional income from joint venture subject to unincorporated busi- ness tax	\$12,123.60
Additional salary credit - (2,424.72) Exemption, T.L. § 386-f - (5,000.00)	(7,424.72)
Additional amount subject to unincorpo- rated business tax	4,698.88
Additional unincorporated business tax due at 3%.	140.97

This assessment is subject to interest at
6% from February 21, 1957.

Dated: Albany, New York, this 28th day of August , 1972.

STATE TAX COMMISSION

Norman Gallman
President

Abraham M. Kohn
Commissioner

Milton Kohn
Commissioner