In the Matter of the Petition

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PAUL LESTER WIENER & ASSOCIATES

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

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)1963, 1964:

and 1965.

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 31stday of May , 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon PAUL LESTER WIENER
& ASSOCIATES (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Paul Lester Wiener & Associates
119 East 18th Street
New York, New York 10003

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

31stday of May

. 1972

Lynn Wilson

In the Matter of the Petition

of

PAUL LESTER WIENER & ASSOCIATES

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

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) 1963, 1964: and 1965

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 31st day of May , 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon SEYMOUR SMALLBERG
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Seymour Smallberg
257 West 86th 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

31st day of May , 1

Lynn Wilson



STATE TAX COMMISSION

A. BRUCE MANLEY

MILTON KOERNER

NORMAN F. GALLMAN, ACTING PRESIDENT

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

ADDRESS YOUR REPLY TO

DATEM

Albany, New York May 31, 1972

Paul Lester Miener & Associates 119 East 18th Street Now York, New York 10003

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

Please take further notice that pursuant to Section(s) 722 of the Tax Law, any proceeding in court to review an adverse decision must be commenced within 4 conther from 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 relative hereto may be addressed to the undersigned. These will be referred to the proper party for reply.

Very tryly yours

Paul E. Cobourn MEARING OFFICER

Enc.

cc: Petitioner's Representative Law Bureau STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PAUL LESTER WIENER & ASSOCIATES : DECISION

for Redetermination of Deficiency or for Refund of Unincorporated Business Tax under Article 23 of the Tax Law for the Years 1963, 1964 and 1965.

Petitioner, Paul Lester Wiener & Associates, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1963, 1964 and 1965. (File No. 4828). A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on March 23, 1972 at 9:15 A.M. On said date, petitioner's representative, Seymour Smallberg, C.P.A., waived a formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUES

- I. Did the partnership activities as architects and city planners of petitioner, Paul Lester Wiener & Associates, during the years 1963, 1964 and 1965, constitute the practice of a profession?
- II. Did petitioner, Paul Lester Wiener & Associates file New York State unincorporated business tax returns for the years 1963, 1964 and 1965.

FINDINGS OF FACT

1. Petitioner, Paul Lester Wiener & Associates, filed New York State income tax and unincorporated business tax return forms for

the years 1963, 1964 and 1965. On the 1963 and 1964 returns under Schedule U-D, it stated that its net income was exempt from the unincorporated business tax. On the 1965 return, it left Schedule U-D blank.

- 2. On March 25, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Paul Lester Wiener & Associates, imposing unincorporated business tax in the sum of \$380.31 for the year 1963, \$464.46 for the year 1964 and \$740.51 for the year 1965, upon the business income reported by it. It also imposed a penalty in the sum of \$396.32 for failure to file unincorporated business tax returns for said years. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$2,240.01.
- 3. On June 30, 1962, Paul Lester Wiener and Richard Bender formed a partnership under the name of "Paul Lester Wiener & Associates". During the years 1963, 1964 and 1965, the partnership engaged in the business of rendering professional services in the fields of architecture and city planning. Mr. Bender, an architect licensed by the State of New York, performed the services related to architecture. Mr. Wiener, an established city planner, performed the services related to city planning.

CONCLUSIONS OF LAW

A. That the practice of architecture and the practice of city planning constitute the practice of professions exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law and NYCRR 281.4. However, under section 7307(2) of the Education Law, an architect may only join in the formation of professional partnership with architects, engineers, land surveyors and landscape architects. There is no provision for the formation of a professional partnership with a city planner. Therefore, a partnership consisting of

a city planner and a licensed architect does not constitute a partnership engaged in the practice of a profession exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law. Accordingly, the activities of petitioner, Paul Lester Wiener & Associates, during the years 1963, 1964 and 1965, constituted the carrying on of an unincorporated business and the income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

- That petitioner, Paul Lester Wiener & Associates filed New York State unincorporated business tax returns for the years 1963 and 1964 and, therefore, the penalty assessed for failure to file said returns for said years in the sum of \$95.08 for the year 1963 and \$116.12 for the year 1964 is waived.
- That the petition of Paul Lester Wiener & Associates is granted to the extent of cancelling the penalties imposed pursuant to section 685(a) of the Tax Law for the years 1963 and 1964, in the sum of \$95.08 for the year 1963, and \$116.12 for the year 1964, and the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued March 25, 1968 and, except as so granted, the petition is in all other respects denied.

Albany, New York DATED:

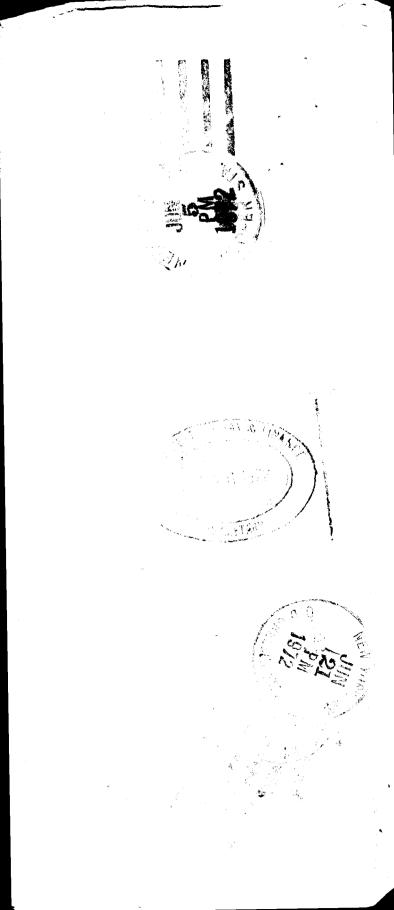
May 31, 1972

STATE TAX COMMISSION

COMMISSIONER

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NE STEE THAT A LOWD 110017 KN paul Lester Whener & Associates New York, New York 10003 Forwarded 119 East 18th Street ANTON JEHRAMEN NEW YORK, NY 10011 GERNALDED No. 592584 MAIL Department of Taxation and Finence ALBANY, N. Y. 12226 STATE OF NEW YORK STATE CAMPUS AD 32 (2.70) 50M





STATE TAX COMMISSION

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

ADDRESS YOUR REPLY TO

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY
MILTON KOERNER

DATED:

Albany, New York May 31, 1972

Paul Lester Wiener & Associates 119 East 18th Street New York, New York 10003

Gentlemen:

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

Please take further notice that pursuant to Section(s) 722 of the Tax Law, any proceeding in court to review an adverse decision must be commenced within 4 months from 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 relative hereto may be addressed to the undersigned. These will be referred to the proper party for reply.

Very traly yours

Faul B. 66burn HEARING OFFICER

Enc.

cc: Petitioner's Representative Law Bureau

STATE TAX COMMISSION

In the Matter of the Petition

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PAUL LESTER WIENER & ASSOCIATES

DECISION

for Redetermination of Deficiency or for Refund of Unincorporated Business Tax under Article 23 of the Tax haw for the Years 1963, 1964 and 1965.

petitioner, Paul Lester Wiener & Associates, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1963, 1964 and 1965. (File No. 4828). A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the effices of the State Tax Commission, 80 Centre Street, New York, New York, on March 23, 1972 at 9:15 A.M. On said date, patitioner's representative, Seymour Smallberg, C.P.A., waived a formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders, the following decision after due consideration of said record.

ISSUES

- I. Did the partnership activities as architects and city planners of petitioner, Paul Lester Wiener & Associates, during the years 1963, 1964 and 1965, constitute the practice of a profession?
- II. Did petitioner, Paul Lester Wiener & Associates filadNew York State unincorporated business tax returns for the years 1963, 1964 and 1965.

FINDINGS OF FACT

1. Petitioner, Paul Lester Wiener & Associates, filed New Mork State income tax and unincorporated business tax return forms For

STATE TAN COMMISSION

In the Matter of the Partion

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PAUL LEETER WINGER & AGUSTATES

DECISION

tor wedergraination of Deficiency or for wefund of Uniourpersted Buginers The under Article 23 or the Tax Daw for the Years 1963, 1966 and 1261.

Petitioner, Faul Leafer Wiener & Associates, has lifed a petition for refund of continuous or for refund of unincorporated pusiness tax under Article 23 of the Tax Law for the years 1965, 1664 and 1965. (File No. 4828). A formal hearing was schedulad before Laul B. Cohur, Hearing Officer, at the effices of the State Tax Condission, 50 Cantre Street, hew York, Sew York, on March 23, 1972 at 2:15 A.M. On said date, petitioner's sepicaentative, Seymour March 2:15 A.M. On said date, petitioner's representative, Seymour March Co.P.A. Valved a formal hearing and authority the Commission of the entire record contained in the first Commission of the entire

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the following decision after due consideration of said reactd.

- 7. Did the parthagehip activities as architects and city planners of petitioner, Paul Leater Winner & Assembles, during the years 1961, 1964 and 1865, constitute the practice of a profession?
- The hid petitioner, saut bester Wibras a Ausocistes file bulk North State, unincomparated bus Lasa hab recurs for the rears 1913.

PLANCE OF PARIT

i. Patitionet, Paulrheiter Winder, & Asadcielse, Files New York Ateke income tax sad unincorporated businase tax setura forms for the years 1963, 1964 and 1965. On the 1963 and 1964 returns under Schedule U-D, it stated that its net income was exempt from the unincorporated business tax. On the 1965 return, it left Schedule U-D blank.

- 2. On March 25, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Paul Lester Wiener &
 Associates, imposing unincorporated business tax in the sum of
 \$380.31 for the year 1963, \$464.46 for the year 1964 and \$740.51
 for the year 1965, upon the business income reported by it. It
 also imposed a penalty in the sum of \$396.32 for failure to file
 unincorporated business tax returns for said years. In accordance
 with the aforesaid Statement of Audit Changes, it issued a Motige
 of Deficiency in the sum of \$2,240.01.
- 3. On June 30, 1962, Paul Lester Wiener and Richard Bender formed a partnership under the name of "Paul Lester Wiener & Associates". During the years 1963, 1964 and 1965, the partnership engaged in the business of rendering professional services in the fields of architecture and city planning. Mr. Bender, an architect licensed by the State of New York, performed the services related to architecture. Mr. Wiener, an established city planner, performed the services related

CONCLUSIONS OF LAW

A. That the practice of architecture and the practice of city planning constitute the practice of professions exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law and NYCRR 28114.

However, under section 7307(2) of the Education Law, an architect may only join in the formation of professional partnership with architects, engineers, land surveyors and landsquage architects.

There is no provision for the formation of a professional partnership with this with a city planner. Therefore, a partnership consisting of

the years 1961, 1964 and 1965. On the 1963 and 1964 returns under Schedule U-U, it stated that its net income was exampt from the uninforporated business tax: On the 1965 return, it left schedule U-D biank.

2. On March 25, 1966, the Income Tem Bureau Legued a Statement of Audit Changes againmentationer. Paul Legrer Wicher &
Associates, imposing unincorporated qualches ten in the mun of
\$350,37 for the year 1963, 3464.46 for the year 1064 and \$74.51
for the year 1965, upon the business income reported by it.

also imposed a penalty in the sum of 496.32 for Inilare to file
unincorporated business tax returns for gald years. In accordance
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of Deficiency in the sum of \$2,240.61.

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CONCLUSIONS OF EAR

As The the practice of architecture and the practice of lity planning constitute the practice of postagions exempt from the imposition of the uniformical business has in adjoidance with the modelian of the uniformity and intunt of section 703(c) of the fax law and intext 2:1.4. However, under section 7307(2) of the Saucetton Law, an architect way cally join in the formation of consistent with architects, endineers, land quaveyous and landedapa, and it sets. There is no provision for the following of a profession partner with there is no provision for the follows of a partnership partner with a city planner, Therefore, a partnership constiting of a phig with a city planner, Therefore, a partnership constiting of

partnership engaged in the practice of a profession exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law.

Accordingly, the activities of petitioner, Paul Lester Wiener & Associates, during the years 1963, 1964 and 1965, constituted the carrying on of an unincorporated business and the income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

- B. That petitioner, Paul Lester Wiener & Associates filed New York State unincorporated business tax returns for the years 1963 and 1964 and, therefore, the penalty assessed for failure to file said returns for said years in the sum of \$95.08 for the year 1963 and \$116.12 for the year 1964 is waived.
- c. That the petition of Paul Lester Wiener & Assopiates is granted to the extent of cancelling the penalties imposed pursuant to section 685(a) of the Tax Iaw for the years 1963 and 1964 in the sum of \$95.08 for the year 1963, and \$116.12 for the year 1964, and the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued March 25, 1968 and, except as accordingly definition is in all other respects denied.

DATED: Albany, New York

May 31, 1972.

STATE TAX COMMISSION

COMMISSIONER

COMMISSIONS

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n oity planner and a licenced architect door not echativite a partnership angaged in the practice of a profession exempt from the imposition of the unincorporated business has in accordance with the meaning and latent of section 703 (d) of the Tau Level Accordingly, the activities of petitioner, faul Lester Woner & Accordingly, the activities of petitioner, faul Lester Woner & Accordingly, on of an unincorporated ausiness and the income derived the them if on the subject to the unincorporated ausiness and the income derived them income with the meaning and intend properties business and the Tex in a correct with the meaning and intend of rection 703 of the Tex Law.

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