

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MICHAEL RABIN

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) 1966. :

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 3rd day of October, 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon MICHAEL RABIN
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

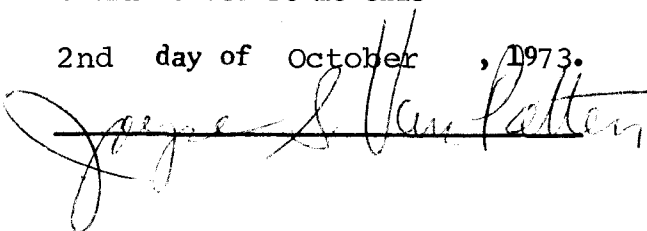
Michael Rabin
52 West 88th Street
New York, New York 10024

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

2nd day of October, 1973.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MICHAEL RABIN

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 3rd day of October, 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon LEE EPSTEIN, ESQ.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

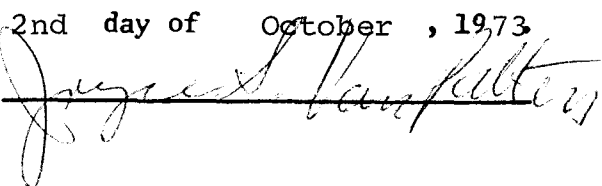
Lee Epstein, Esq.
660 Madison Avenue
New York, New York 10021

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

2nd day of October, 1973







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

Mario A. Procaccino
~~FORNIAK, XXXXXX~~, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
October 3, 1973

Michael Rabin
52 West 88th Street
New York, New York 10024

Dear Mr. Rabin:

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,

L. Robert Leisner
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
MICHAEL RABIN	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Year 1966.	:	

Petitioner, Michael Rabin, petitioned for a redetermination of deficiencies in unincorporated business taxes under Article 23 of the Tax Law for the year 1966.

A formal hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on April 12, 1973, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Lee Epstein, Esq., and the Income Tax Bureau was represented by Saul Heckelman, Esq., (James A. Scott, Esq., of Counsel).

ISSUE

Is the taxpayer, an interior designer and hospital consultant, practicing a profession, the income of which is exempt from the unincorporated business taxes?

FINDINGS OF FACT

1. Petitioner, Michael Rabin, did not file a New York State unincorporated business tax return for the year 1966.
2. A Notice of Determination of deficiencies in unincorporated business taxes for the year 1966 was issued on December 29, 1969, against the taxpayer under File No. 68048630.
3. The taxpayer petitioned for redetermination of the deficiencies.
4. The taxpayer contends his work as an interior designer and a hospital consultant qualifies him as a professional.

5. Capital is not a material income producing factor of the taxpayer's business activity.

6. Mr. Rabin employed assistants whose work was under his supervision.

7. The taxpayer has a B.A. degree in interior design from Pratt Institute. He is not licensed as an architect. His work is in a unique field and there is no license which would certify qualification in this field.

8. The taxpayer has had articles published in several trade journals including "Contract Magazine", "Interiors", and "Interior Design".

9. Mr. Rabin's work is almost wholly the design of the interiors of hospitals. This includes space planning, lighting, built-in case work and seating, reception counters, information windows, coordinating furniture, draperies and floor coverings, etc. He has also designed chapels for hospital projects and auditoriums and gymnasiums for architectural projects.

CONCLUSIONS OF LAW

A. The taxpayer's activities are predominantly directed toward advising hospitals on interior design and consulting with them on spacial planning. Activities as an interior designer and hospital consultant are not activities in a "field of science or learning gained by a prolonged course of specialized instruction and study". This taxpayer acquired his competence as a result of business experiences and not, primarily, through academic work. The taxpayer has not sustained the burden of proof that he is a professional. Matter of the Petition of George Frei; decision of the State Tax Commission, January 23, 1970.


B. The deficiency is sustained, and the taxpayer's petition is denied.

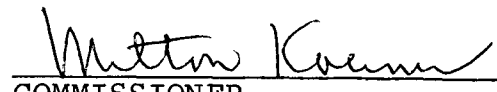
C. Pursuant to the Tax Law, interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York
October 3, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER