#### STATE OF NEW YORK STATE TAX COMMISSION

In the Matter of the Petition of DONALD R. BAKER : 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) 1967 :

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 1st day of May , 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Paul Frank, C.P.A., Becker and Frank (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Paul Frank, C.P.A. Becker and Frank 1501 Broadway

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

mitte Sunale

**19**74. day of lst Mav

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

#### STATE OF NEW YORK STATE TAX COMMISSION

# In the Matter of the Petition of DONALD R. BAKER 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) 1967

State of New York County of Albany

, being duly sworn, deposes and says that Martha Funaro she is an employee of the Department of Taxation and Finance, over 18 years of , 1974, she served the within age, and that on the 1st day of May Notice of Decision (or Determination) by (certified) mail upon Donald R. Baker (representative of) the petitioner in the within

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proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Donald R. Baker 210 East 75th Street 10021 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

day of May

Harth Suna

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



# STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION Mario A. Procaccino

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

Dater: Albany, New York

May 1, 1974

Mr. Donald R. Baker 210 East 75th Street New York, New York 10021

## Dear Mr. Baker:

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 relating hereto may be addressed to the undersigned. These will be referred to the proper party for reply.

Very truly yours,

Myclifernyht

Nigel G. Wright HEARING OFFICER

cc Petitioner's Representative Law Bureau

### STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition : of : DONALD R. BAKER : for a Redetermination of a Deficiency : or for Refund of Unincorporated Business : Tax under Article 23 of the Tax Law for : the Year 1967. :

DECISION

Donald R. Baker filed a petition under section 689 of the Tax Law for the redetermination of deficiency issued January 18, 1971, in the amount of \$91.16 plus interest of \$15.09 for a total of \$106.25 in unincorporated business taxes under Article 23 of the Tax Law for the year 1967.

A hearing was duly held on June 7, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The petitioner was represented by Paul Frank, C.P.A. of Becker and Frank. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by James Scott, Esq. The record of said hearing has been duly examined and considered.

#### ISSUE

The issue in this case is whether the petitioner, who claims to be an interior decorator is exempt from the unincorporated business taxes as a "professional".

## FINDINGS OF FACT

1. Petitioner holds himself out as an "interior designer and consultant" and has done so since 1962.

2. Petitioner received a B.A. degree with a major in Art History in 1951. While in the U.S. Navy, he supervised certain construction aboard a naval ship.

3. He has been employed successively by Intramural, Inc., Alfred Easton Poor, I.M. Pei & Associates, Wilton Becket & Associates, and W. & J. Sloan.

4. Copies of contracts submitted by petitioner indicate that petitioner's activities are concentrated largely around the arrangement of office space.

5. Petitioner did not appear or testify at the hearing and was not subject to cross-examination as to the details of his background and activities.

# CONCLUSIONS OF LAW

Petitioner has not carried the burden of proof that he is a professional. The deficiency is found correct and is due together with such interest as may be computed under section 684 of the Tax Law.

DATED: Albany, New York May 1, 1974

STATE TAX COMMISSION

COMMISSIONER

<u>ec/hanley</u> IONER V